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This edition contains the statutes relevant to private schools and their employees. Legislation enacted through January 3, 1977 is included. Also included are relevant provisions of the Wisconsin Constitution. (Author/IRT)

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LAWS OF WISCONSIN

RELATING TO

NONPUBLIC SCHOOLS

covering
legislation enacted through
January 3

1977

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INTRODUCTION

This edition of *Laws of Wisconsin Relating to Nonpublic Schools* contains the statutes relevant to nonpublic schools and nonpublic school staff, covering legislation enacted through January 3, 1977. Also included are relevant provisions of the Wisconsin Constitution.

Refer to the General Index in the back of the book for a listing of chapter numbers by subject.

In using this handbook you will note the general index will refer to the appropriate statutes by number. Wisconsin statutes are written in Chapters and Sections. The chapter number is to the left of the decimal and the section number to the right; 120.13 means section 13 of chapter 120.

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ARTICLE I.

DECLARATION OF RIGHTS.

Freedom of worship; liberty of conscience; state religion; public funds. SECTION 18. The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

The contract requiring the state to pay an amount to Marquette University for the education of dental students (ch. 44, Laws 1971) violates the constitution. State ex rel. Warren v. Nusbaum, 55 W (2d) 316, 198 NW (2d) 650.

It is outside the province of a civil court to review the merits of a determination of a duly authorized ecclesiastical tribunal which has adhered to prescribed canonical procedure and which results in terminating a clergyman's relationship with his church. Olston v. Hallock, 55 W (2d) 687, 201 NW (2d) 35.

115.85 (2) (d) does not violate this section since the primary effect is not the advancement of a religious organization but to provide special educational services to the handicapped children of Wisconsin, a clearly secular purpose. State ex rel. Warren v. Nusbaum, 64 W (2d) 114, 219 NW (2d) 577.

This section is not violated by the released time provisions of 118.155, where the statute accommodates rather than restricts the right of students to religious instruction, does not compel any student to participate in religious training, and does not involve the use or expenditure of public funds especially where the electorate approved an amendment to art. X, sec. 3, specifically authorizing enactment of a released time statute. State ex rel. Holt v. Thompson, 66 W (2d) 659, 225 NW (2d) 678.

Constitutionality of state tuition grants to parents of resident pupils enrolled in private elementary or high schools discussed. 58 Atty. Gen. 163.

1971 Assembly Bill 1577 would violate the establishment clause of the First Amendment to the U.S. Const. and sec. 18. Guidelines to possibly avoid constitutional objection to CESA service contracts with private schools discussed. 62 Atty. Gen. 75.

Leasing of university buildings to a religious congregation during nonschool days and hours on a temporary basis while the congregation's existing facility is being renovated and leasing convention space to a church conference would not violate separation of church and state provisions of the First Amendment to U.S. Const. and sec. 18. 63 Atty. Gen. 374.

The department of public instruction may, if so authorized under 16.54, implement the school lunch program and special food service plan for children in secular and sectarian private schools and child-care institutions without violating the U.S. or Wisconsin Constitutions. 63 Atty. Gen. 473.

Nyquist and public aid to private education. Piekarski, 58 MLR 247.

Transportation of school children. SECTION 23. *[As created April 1967]* Nothing in this constitution shall prohibit the legislature from providing for the safety and welfare of children by providing for the transportation of children to and from any parochial or private school or institution of learning. *[1965 J.R. 46, 1967 J.R. 13, vote April 1967]*

Use of school buildings. SECTION 24. *[As created April 1972]* Nothing in this constitution shall prohibit the legislature from authorizing, by law, the use of public school buildings by civic, religious or charitable organizations during nonschool hours upon payment by the organization to the school district of reasonable compensation for such use. *[1969 J.R. 38, 1971 J.R. 27, vote April 1972]*

ARTICLE X.

EDUCATION.

District schools; tuition; sectarian instruction; released time. SECTION 3. *[As amended April 1972]* The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours. *[1969 J.R. 37, 1971 J.R. 28, vote April 1972]*

The constitution does not require that school districts be uniform in size or equalized valuation. Larson v. State Appeal Bd. 56 W (2d) 823, 202 NW (2d) 920.

Establishment of a kindergarten for 4 and 5-year old children is not required, but the statutes establish December 1 as the date on which a child must be 5 years old in order to enter kindergarten, and the age must be uniform throughout the state. Pacyna v. Board of Education, 57 W (2d) 562, 204 NW (2d) 671.

Public schools may sell or charge fees for the use of books and items of a similar nature when authorized by statute without violating sec. 3. Bd. of Education v. Sinclair, 65 W (2d) 179, 222 NW (2d) 143.

Use of the word "shall" in 118.155, making cooperation by school boards with programs of religious instruction during released time mandatory rather than discretionary does not infringe upon the inherent powers of a school board. State ex rel. Holt v. Thompson, 66 W (2d) 659, 225 NW (2d) 678.

The state and its agencies, except the department of public instruction, constitutionally can deny service or require the payment of fees for services to children between 4 and 20 who seek admission to an institution or program because school services are lacking in their community or district. 58 Atty. Gen. 53.

Intrastate inequalities in public education; the case for judicial relief under the equal protection clause. Silard, White, 1970 WLR 7.

The constitutional mandate for free schools. 1971 WLR 971.

TITLE III.

General Organization Of The State, Except The Judicial Department.

CHAPTER 14

CONSTITUTIONAL OFFICES AND INTERSTATE BODIES

SUBCHAPTER I

EXECUTIVE OFFICE

14.16 Holiday proclamations. (1) ARBOR AND BIRD DAY. The governor, by proclamation, may set apart one day each year to be designated as Arbor and Bird Day, and may request its observance by all schools, colleges and other institutions by the planting of trees, the adornment of school and public grounds and by suitable exercises having for their object the advancement of the study of arboriculture, the promotion of a spirit of protection to birds and trees and the cultivation of an appreciative sentiment concerning them.

(2) CITIZENSHIP DAY. The governor may also set aside, by proclamation, the 3rd Sunday in May in each year to be designated as Citizenship Day, and shall request its observance by all circuit court judges, county boards, municipalities, colleges and other institutions, by suitable exercises for all those persons who have recently become enfranchised either by naturalization or by reaching their majority on the necessity of exercising responsible, vigilant and intelligent citizenship to safeguard and maintain our inalienable American liberties, freedom of person, stability, strength, endurance of our democratic institutions, ideals and leadership.

(3) LABOR DAY. The governor may also set apart, by proclamation, one day in each year to be observed as Labor Day.

(4) ARMISTICE DAY. The governor shall annually issue a proclamation calling attention to the fact that November 11 is the anniversary of Armistice Day, and requesting the people throughout the state to observe by appropriate exercises the hour at which the armistice following World War I was concluded.

(5) MOTHER'S DAY. The governor may annually proclaim the 2nd Sunday in May as Mother's Day and urge the people and organizations to display the American flag as a public expression of love and reverence for the mothers of our state and as a symbol of a united effort to inspire better homes and closer union between the state, its homes and its sons and daughters.

(6) GOLD STAR MOTHER'S DAY. The governor may annually proclaim the last Sunday in September as Gold Star Mother's Day and call upon the people and organizations to display the American flag and hold appropriate meetings in their homes, churches and other suitable places as a public expression of love, sorrow and reverence for the gold star mothers of our state.

(7) AMERICAN HISTORY MONTH. To emphasize the spirit of America and Americanism and to remind the citizens of this state of the history of our nation and its free institutions, the month of February in each year is designated "American History Month" and the governor is directed to annually issue a suitable proclamation for the observance thereof.

History: 1971 c. 307; 1973 c. 140.

SUBCHAPTER V

INTERSTATE BODIES AND AGREEMENTS

14.80 Interstate Indian commission. (1) There is created an interstate Indian commission of 2 members, one an Indian, appointed by the governor for such term as he fixes, to represent the state on the governor's interstate Indian council. The members of the commission shall be reimbursed for their actual and necessary expenses as members of the commission from the appropriation made by s. 20.505 (5) (a), on vouchers approved by the governor.

(2) The commission shall:

(a) Attend meetings of the governor's interstate Indian council;

(b) Assist in developing a program for the readjustment of Indian affairs which will be more in keeping with the present-day needs of the Indian;

(c) Assist in accomplishing the social and economic rehabilitation of Indians with emphasis upon the initiative and self-reliance of the Indian himself;

(d) Assist in equipping Indians for living with and in our American culture through education and training;

(e) Assist in encouraging Indians to preserve, as individuals, their best traditions and mores as an integral part of American life;

(f) Assist in bringing an early end to federal wardship, with adequate federal aid in the interim; and

(g) Join with representatives of other states having substantial Indian populations and in cooperation with the federal government, in finding a solution to Indian problems.

TITLE IV.

Public Domain and the Trust Funds.

CHAPTER 29

FISH AND GAME

29.22 General restrictions on hunting. (1) HUNTING RESTRICTED AREAS. No person shall hunt within 1700 feet of any hospital, school grounds or sanatorium. The department may furnish signs designating the restricted area. No conviction shall be had for a violation of this subsection unless the restricted area is designated by such signs.

TITLE VI.

Educational Institutions.

CHAPTER 38

VOCATIONAL, TECHNICAL AND ADULT EDUCATION

38.51 Educational approval board. (1) DEFINITIONS. In this section unless the context clearly requires otherwise:

(a) "Board" means educational approval board.

(b) "Solicitor" means a person employed by or representing a school located either within or outside this state who, in places other than the actual business premises of the school, personally attempts to secure the enrollment of a student in such school.

(c) "Person" means any individual, partnership, association, or corporation or any combination thereof.

(d) "School" means any person, located within or outside this state, maintaining, advertising or conducting any course or course of instruction for profit or a tuition charge; but in sub. (7) and (8) "school" means any private trade, correspondence, business or technical school not excepted under sub. (9).

(e) "Course" means an organized unit of subject matter in which instruction is offered within a given period of time or which covers a specified amount of related subject matter.

(f) "Course of instruction" means a series of classroom or correspondence courses having a unified purpose which lead to a diploma or degree or to an occupational or vocational objective.

(2) PURPOSE. The purpose of the board is to approve schools and courses of instruction for the training of veterans of the armed forces and war orphans receiving assistance from the federal government, protect the general public by inspecting and approving private trade, correspondence, business and technical schools doing business within this state whether located within or outside this state and courses of instruction offered by these schools and to regulate the soliciting of students for correspondence or classroom courses and courses of instruction offered by these schools.

(3) RULE-MAKING POWER. The board shall prescribe rules and establish standards necessary to carry out its purpose.

(5) EMPLOYES, QUARTERS. The board shall employ a person to perform the duties of an executive secretary and such other persons under the classified service as may be necessary to carry out its purpose. The administrative functions of the board shall be in charge of the person performing the duties of the executive secretary. The board shall keep its office with the board of vocational, technical and adult education.

(6) APPROVAL AGENCY FOR VETERAN'S TRAINING. (a) Except as provided in par. (b) the board shall be the state approval agency for the education and training of veterans and war orphans. It shall approve and supervise schools and courses of instruction for their training under Title 38, U.S.C., and may enter into and receive money under contracts with the veterans administration or other appropriate federal agencies.

(b) The governor may designate the following agencies for approval and supervision of special phases of the program of veterans education:

1. On the job and apprenticeship training program, the department of industry, labor and human relations.

2. On the farm training program, the board of vocational, technical and adult education.

3. Embalmers and funeral directors apprentices, the funeral directors and embalmers examining board.

(7) APPROVAL OF SCHOOLS GENERALLY. In order to protect students, prevent fraud and misrepresentation in the sale and advertising of courses and courses of instruction and encourage schools to maintain courses and courses of instruction consistent in quality, content and length with generally accepted educational standards, the board shall:

(a) Investigate the adequacy of courses and courses of instruction offered by schools to

residents of this state and establish minimum standards for such courses of instruction.

(b) Investigate the adequacy of schools' facilities, equipment, instructional materials and instructional programs and establish minimum standards therefor.

(c) Establish rules, standards and criteria to prevent fraud and misrepresentation in the sale and advertising of courses and courses of instruction.

(d) Establish rules restricting the negotiability of promissory instruments received by schools in payment of tuition and other charges.

(e) Establish minimum standards for refund of the unused portion of tuition, fees and other charges if a student does not enter a course or course of instruction or withdraws or is discontinued therefrom.

(f) Require schools offering courses and courses of instruction to residents of this state to furnish information concerning their facilities, curricula, instructors, enrollment policies, tuition and other charges and fees, refund policies and policies concerning negotiability of promissory instruments received in payment of tuition and other charges.

(g) Approve courses of instruction and schools meeting the requirements and standards established by the board and complying with rules established by the board and publish a list of such schools and courses of instruction.

(h) Issue permits to solicitors when all board requirements have been met.

(8) SOLICITING OF STUDENTS. (a) *In general.* No solicitor representing any school offering any course or course of instruction shall sell any course or course of instruction or solicit students therefor in this state for a consideration or remuneration, except upon the actual business premises of the school, unless he first secures a solicitor's permit from the board. If the solicitor represents more than one school, a separate permit shall be obtained for each school represented by him.

(b) *Solicitor's permit.* The application for a solicitor's permit shall be made on a form furnished by the board and shall be accompanied by a fee set by the board, not to exceed $50, and a surety bond acceptable to the board in the sum of $1,000. Such bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as the result of any fraud or misrepresentation used in procuring his or her enrollment or as a result of the failure of the school to faithfully perform the agreement made with the student by the solicitor, and may be supplied by the solicitor or by the school itself as a blanket bond covering each of its solicitors in the amount of $1,000. Upon approval of a permit the board shall issue an identification card to the solicitor giving his or her name and address, the name and address of the employing school, and certifying that the person whose name appears on the card is authorized to solicit students for the school. A permit shall be valid for one year from the date issued. Liability of the surety on the bond for each solicitor covered thereby shall not exceed the sum of $1,000 as an aggregate for any and all students for all breaches of the conditions of the bond. The surety of a bond may cancel the same upon giving 30 days' notice in writing to the board and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. An application for renewal shall be accompanied by a fee set by the board, not to exceed $50, a surety bond if a continuous bond has not been furnished, and such information as the board requests of the applicant.

(c) *Refusal or revocation of permit.* The board may refuse to issue or renew, or may revoke, any solicitor's permit upon one or any combination of the following grounds:

1. Wilful violation of this subsection or any rule promulgated by the board under this section;

2. Furnishing false, misleading or incomplete information to the board;

3. Presenting information to prospective students relating to the school, a course or course of instruction which is false, fraudulent or misleading;

4. Refusal by the school to be represented to allow reasonable inspection or to supply information after written request therefor by the board;

5. Failure of the school which the solicitor represents to meet requirements and standards established by and to comply with rules prescribed by the board pursuant to sub. (7);

6. Cancellation of the solicitor's bond by surety;

7. That the applicant or holder of the permit is not of good moral character.

(d) *Notice of refusal to issue or renew permit.* Notice of refusal to issue or renew a permit or of the revocation of a permit shall be sent by registered mail to the last address of the applicant or permit holder shown in the records of the board. Revocation of a permit shall be effective 10 days after the notice of revocation has been mailed to the permit holder.

(e) *Request for appearance.* Within 20 days of the receipt of notice of the board's refusal to issue or renew a permit or of the revocation of a permit, the applicant or holder of the permit may request that he be permitted to appear before the board in person, with or without counsel, to present reasons why the permit should be issued or reinstated. Upon receipt of such request the board shall grant a hearing to the applicant or holder of the permit within 30 days giving him at least 10 days' notice of the date, time and place.

(f) *Recovery by students.* The bond in force under par. (b) shall not limit or impair any right of recovery otherwise available under law, nor shall the amount of the bond be relevant in determining the amount of damages or other relief to which any plaintiff may be entitled.

(g) *Recovery on contracts.* No recovery shall be had by any school or its assignee on any contract for or in connection with a course or course of instruction if the representative who sold or solicited the course was not the holder of a solicitor's permit under this subsection at the time of the sale or solicitation.

(h) *Enforcement.* The attorney general or any district attorney may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of this subsection.

(i) *Penalty.* Whoever violates this subsection may be fined not more than $500 or imprisoned not more than 3 months or both.

(9) EXCEPTIONS. This section, except the provisions of sub. (6), shall not apply to the following:

(a) Schools organized on a nonprofit basis as defined by the U. S. internal revenue code.

(b) Schools that are supported mainly by taxes.

(c) Schools of a parochial or denominational character offering courses having a sectarian objective.

(d) Schools primarily offering instruction avocational or recreational in nature and not leading to a vocational objective.

(e) Courses conducted by employers exclusively for their employes.

(f) Schools, courses of instruction and training programs which are approved or licensed and supervised by other state agencies and boards.

(g) Schools approved by the department of public instruction for the training of teachers.

(h) Schools accredited by accrediting agencies recognized by the board.

(10) PROPRIETARY SCHOOL APPROVAL. (a) *Authority.* All proprietary schools shall be examined and approved by the board before operating in this state. Approval shall be granted to schools meeting the criteria established by the board for a period not to exceed one year. Existing schools on November 5, 1971, have until September 1, 1973, to receive approval. No school may advertise in this state unless approved by the board. All approved schools shall submit quarterly reports, including information on enrollment, number of teachers and their qualifications, course offerings, number of graduates, number of graduates successfully employed and such other information as the board deems necessary.

(b) *Application.* Application for initial approval of a school or a course of instruction, renewal of approval of a school or reinstatement of approval of a school or course of instruction which has been revoked shall be made on a form furnished by the board and shall be accompanied by a fee set by the board, not to exceed $500, and such other information as the board deems necessary to evaluate the school in carrying out the purpose of this section.

History: 1971 c. 125 ss. 249, 448, 1971 c. 211 s. 51; 1973 c. 12, 90; 1975 c. 39, 224, 422.

CHAPTER 39

HIGHER EDUCATIONAL AGENCIES AND COMPACT FOR EDUCATION

SUBCHAPTER II

HIGHER EDUCATIONAL AIDS BOARD

39.26 Definition. In this subchapter, "board" means the higher educational aids board.

39.27 Council on financial aids. The council on financial aids shall advise the board on matters pertaining to the state's student financial aids programs.

History: 1973 c. 90.

39.28 Powers and duties. (1) The board shall administer the programs under this subchapter and may establish such rules as are necessary to carry out its functions. It may accept and use any funds which it receives from participating institutions under this subchapter. It may enter into such contracts as are necessary to carry out its functions under this subchapter.

(2) The board shall establish plans to be administered by the board for participation by this state under any federal acts relating to higher education and submit them to the U.S. commissioner of education for his approval. The board may utilize such criteria for determination of priorities, participation or purpose as are delineated in the federal acts.

(3) In its biennial report under s. 15.04 (4), the board also shall include recommendations for improvement of the state's student financial aid programs.

(4) The board may assign, sell, convey or repurchase student loans made under s. 39.32 subject to prior approval by the joint committee on finance.

History: 1971 c. 125, 211; 1973 c. 90; 1975 c. 198, 224.

39.29 Executive secretary. An executive secretary shall be appointed outside the classified service by the board.

History: 1971 c. 211, 228.

39.30 Grants. (1) DEFINITIONS. In this section:

(c) "Effective income" means the sum of the taxable incomes, as defined in sec. 63 of the internal revenue code.

(d) An "accredited" institution is an institution accredited by a nationally recognized accrediting agency or by the board of nursing pursuant to s. 441.01 (4), or, if not so accredited, is a nonprofit institution of higher education whose credits are accepted on transfer by not less than 3 institutions which are so accredited, on the same basis as if transferred from an institution so accredited.

(e) "Resident student" shall be determined under s. 36.27, so far as applicable.

(2) ELIGIBILITY. A full-time resident student registered as a freshman, sophomore, junior or senior in an accredited, nonprofit, post high school, educational institution in this state shall be eligible for grants under this section for each semester of attendance, but:

(a) No student shall be eligible for grants in more than the equivalent of 8 semesters of undergraduate education.

(b) A student shall be and shall remain eligible for grants provided he meets acceptable academic standards prescribed by his institution.

(d) No grant shall be awarded to members of religious orders who are pursuing a course of study leading to a degree in theology, divinity or religious education.

(3) BASIS OF GRANTS. Effective income and the grant to be paid for each semester shall be determined under pars. (a) to (i) for a full-time resident student except for a full-time resident student registered as a freshman after August 1, 1976, as a freshman or sophomore after August 1, 1977, as a freshman, sophomore or junior after August 1, 1978, as a freshman, sophomore, junior or senior after August 1, 1979.

(a) If the student or his spouse, or both, provides the majority of his support, their effective income shall be used in determining the grant under this section.

(b) If a parent or parents provide the majority of the support of the student, the combined effective income of such parent or parents shall be used in determining the grant under this section.

(c) If more than one student for whom such parents provide a majority of support qualifies for a grant under this section, the combined effective income of the parents shall be divided by the number of such eligible students in the family in determining the grant payable to each such student.

(e) The grant under this section for any semester or term shall not be more than that portion of a student's tuition and instruction-related fees exceeding the resident fee at the Madison campus of the university of Wisconsin.

(i) The schedule for grants for each semester or term of attendance shall be as follows for a full-time resident student except for a full-time resident student registered as a freshman after August 1, 1976, as a freshman or sophomore after August 1, 1977, as a freshman, sophomore or junior after August 1, 1978, as a freshman, sophomore, junior or senior after August 1, 1979:

Effective Income	Maximum grant each semester of study
$0-6,000	$500
6,001-8,000	400
8,001-10,000	300
10,001-12,000	200
Over 12,000	None

(j) 1. The grant to be paid to a full-time resident student registered as a freshman after August 1, 1976, as a freshman or sophomore after August 1, 1977, as a freshman, sophomore or junior after August 1, 1978, as a freshman, sophomore, junior or senior after August 1, 1979, shall be determined under subds. 2 to 7.

2. From the total tuition charged the student by the institution, subtract the amount of the resident academic fee charged at the Madison campus of the university of Wisconsin system.

3. Divide the amount determined in subd. 2 by the student's total cost of attending the postsecondary institution.

4. Multiply the percentage calculated in subd. 3 times the student's expected family contribution which has been determined using the same analysis as that used to determine the expected family contribution of students applying for Wisconsin higher education grants under s. 39.435.

5. Subtract the amount determined in subd. 4 from the amount determined in subd. 2 to arrive at the amount of the grant. The amount of the grant shall not exceed $750 per semester, or a prorated amount in the case of a quarter or trimester institution, or $1,500 per academic year.

6. The grant under this paragraph for any semester or term shall not be more than that portion of a student's tuition and instruction-related fees exceeding the resident academic fee at the Madison campus of the university of Wisconsin system.

7. The board shall establish criteria for the treatment of financially independent students which are consistent with procedures in subds. 2 to 6.

(4) FORMS. The board shall prescribe, furnish and make available, at locations in the state convenient to the public, application forms for grants under this section. Upon request, it shall advise and assist applicants in making out such forms.

(5) RETURN OF GRANTS. Any student who receives a grant under this section, but subsequently does not complete the semester for which the grant was received, shall return a prorated share of the grant based on the number of weeks of the semester left unattended.

History: 1971 c. 125; 1973 c. 90; 1973 c. 335 s. 13; 1975 c. 224.

TITLE VI-B.

Cultural And Memorial Institutions.

CHAPTER 44

HISTORICAL SOCIETIES AND ARTS BOARD

SUBCHAPTER I

STATE HISTORICAL SOCIETY AND LOCAL HISTORICAL SOCIETIES

44.04 School services. (1) The historical society, as part of its program as an educational institution, shall offer to the schools in this state such materials as it shall prepare or make available to facilitate the instruction in the history and civil government of Wisconsin required by s. 118.01 (1).

(2) To this end it may prepare, publish, issue, loan or circulate such magazines, books, aids, guides and other publications, such visual aids, special exhibits, and other teaching materials and aids as it, in consultation with the department of public instruction, deems advisable.

(3) It may make such charges as its board of curators shall establish as just and proper to defray in part the costs of this program.

44.07 Museum extension service. (1) The historical society, in conjunction with its museum program and in order to make its collections and the teaching values of museum materials available on a state-wide basis and to stimulate more effective local museum techniques, may operate a museum extension service with or without the co-operation of other museums or its auxiliary societies.

(2) The said society may for such purpose lend to other museums, public libraries, art galleries, colleges, schools or other responsible institutions or organizations, under such rules and safeguards and for such period as it deems desirable, such items and objects from its collections as are not irreplaceable.

(3) The society may participate in co-operative or joint exhibits with other museums or auxiliary societies in this program, and may out of the appropriation in s. 20.245 (1) extend financial assistance not to exceed $1,000 in the aggregate in any year to other museums or auxiliaries where and only where such aid is found necessary to enable such other museums or auxiliaries to participate in this program.

(4) Transportation charges and other minor costs of such extension exhibits may be charged the exhibitor.

CHAPTER 45

VETERANS' AFFAIRS, BENEFITS AND MEMORIALS

SUBCHAPTER I

GENERAL PROVISIONS

45.28 Vietnam era veterans educational grant program. (1) ADMINISTRATION. (a) There is established, to be administered by the department, a grant program for Vietnam era veterans enrolling as full-time undergraduates in accredited institutions of higher education in this state. This program shall be administered exclusively for the benefit of eligible veterans.

(b) In this section, "veteran" means any person who served on active duty under honorable conditions in the U.S. armed forces for 90 days or more for other than training purposes between August 5, 1964, and July 1, 1975, or who is eligible to receive education benefits from the veterans administration for active service in the U.S. armed forces between August 5, 1964, and July 1, 1975, and whose selective service local board, if any, and home of record at time of entry into active service as shown on the report of separation from the U.S. armed forces were in this state, or who was a resident of this state at the time of entry into active duty, and who has not received a bonus from another state for such service.

(c) The amount of the grant shall be based on the student's financial need as determined by the department. The maximum grant per academic year shall not exceed $400 for married veterans or veterans with dependents and $200 for single veterans. The department shall distribute such grants to students eligible under this program and such grants may be renewable for up to 4 academic years.

(d) For the purpose of this section, veterans shall be considered independent students not required to contribute summer or parental earnings. Spouse's income and current student earning shall be considered in need determination if such income exists. Federal educational veterans benefits shall also be considered in need determination.

(e) The department shall adopt rules relating to the distribution of grants under this program. These rules shall include the establishment of selection procedures, uniform need determination procedures, standard single and married student educational budgets for various institutions and such other rules as the department deems necessary to assure uniform administration of the program. Rules relating to need determination under this paragraph shall be adopted in conformance with guidelines established by the council on Vietnam era veterans education grants. The student budgets used in the determination of need shall be established at least annually and shall adequately recognize the unique and additional needs of veterans and their families.

(f) The department shall prescribe, furnish and make available, at locations in the state convenient to the public, such as county veterans service offices, and to all qualifying schools, application forms for veteran's grants under this section. Upon request, it shall advise and assist applicants in making out such forms.

(g) Veterans who receive grants but subsequently do not complete the semester and receive a fee refund shall return to the state a prorated share of the grant based upon the number of weeks not completed.

(2) STUDENT ELIGIBILITY. The department shall develop selection procedures and may make grants to students if:

(a) The student is a Vietnam era veteran.

(b) The student is enrolled or accepted for enrollment as a full-time undergraduate in an accredited institution of higher education in this state as defined in Wis. Adm. Code, section HEA 2.01 (2).

(c) The student is a resident student as defined by s. 36.27, so far as applicable.

(d) The student needs financial assistance as established under sub. (1).

History: 1973 c. 90; 1973 c. 335 s. 13; 1975 c. 39, 199.

45.396 Correspondence courses and part-time classroom study. Any veteran upon the completion of any correspondence courses or part-time classroom study from the university of Wisconsin system, from any other institution of higher education located in this state which is accredited by the north central association of colleges and secondary schools or from any vocational, technical and adult educational school receiving aids from the board of vocational, technical and adult education or from any public or private high school, taken upon authorization of the department of veterans affairs, may be reimbursed in whole or in part for the cost of such courses, including necessary textbooks, by the department upon presentation to the department of a certificate from the school indicating that the veteran has

completed the courses and stating the cost of such courses and necessary textbooks. Benefits granted under this section shall be paid out of the appropriation under s. 20.485 (2) (um). Enrolled part-time classroom study or direct correspondence courses from a qualified educational institution may be authorized and the veteran reimbursed in whole or in part by the department when such courses are related to one's occupational, professional or educational objectives, and to the extent that payment or reimbursement is not available from any other sources, or, in cases where reimbursement is not specifically for fees and textbooks, to the extent that such reimbursement is insufficient to cover all educational costs. Such reimbursement may not exceed the cost of tuition, fees and textbooks. Part-time study during a regular college semester, trimester or quarter shall be defined as enrollment by a graduate student in courses for which no more than 7 semester or the equivalent trimester or quarter credits will be given upon satisfactory completion, or enrollment by an undergraduate student in courses for which no more than 11 semester or the equivalent trimester or quarter credits will be given upon satisfactory completion. Any veteran or eligible dependent who has obtained a master's degree or its equivalent shall not be eligible for grants under this section. Any veteran or eligible dependent who has obtained at least a baccalaureate degree or its equivalent but not a master's degree or its equivalent shall not be eligible for grants offered under this section if he or she has remaining federal veterans administration education benefits. However, any veteran or eligible dependent who has obtained at least a baccalaureate degree or its equivalent and who has remaining federal veterans administration education benefits or who has obtained a master's degree or its equivalent may be reimbursed in whole or in part for the cost of courses in which such person was enrolled before July 31, 1975, where applications for the reimbursement of the cost of such courses were received by the department before July 31, 1975, and, in the case of enrolled part-time classroom study courses, where such courses were satisfactorily completed on or before August 31, 1975. For the purpose of this section any student who has received a baccalaureate degree shall be deemed to be a graduate student whether he or she is taking graduate or undergraduate courses.

History: 1971 c. 42; 1971 c. 125 s. 522 (1); 1971 c. 154, 198, 307; 1975 c. 39, 199, 224, 422.

45.50 Reemployment in civil employment after completion of military service. (1) Any person who has enlisted or enlists in or who has been or is inducted or ordered into active service in the armed forces of the United States pursuant to the selective training and service act of 1940 or the national guard and reserve officers mobilization act of 1940, the selective service act of 1948 and any acts amendatory thereof or supplementary thereto or P.L. 87-117, and any person whose services are requested by the federal government for national defense work as a civilian during a period officially proclaimed to be a national emergency or a limited national emergency, who, in order to perform such training or service, has left or leaves a position, other than a temporary position, in the employ of any political subdivision of the state or in the employ of any private or other employer, shall be restored to such position or to a position of like seniority, status, pay and salary advancement as though his service toward seniority, status, pay or salary advancement had not been interrupted by such absence; provided that (a) he presents to the employer evidence that he has satisfactorily completed his period of training or civilian service, or that he has been discharged from the armed forces under conditions other than dishonorable, (b) he is still qualified to perform the duties of such position, (c) he makes application for reemployment and resumes work within 90 days after he completed such training or services, military or civilian, or was so discharged from the armed forces, or within 6 months after release from hospitalization for service-connected injury or disease, (d) the employer's circumstances have not so changed as to make it impossible or unreasonable to so restore such person, and (e) the military service was not for more than 4 years unless extended by law. In the event of any dispute arising under this subsection the matter shall be referred to the department of industry, labor and human relations for determination except as such matters pertain to any classified employe of the state, in which case the matter shall be referred to the director of personnel. Orders and determinations of the department of industry, labor and human relations under this section may be reviewed in the manner provided in ch. 227.

(2) The service of any person who is or was restored to a position in accordance with sub. (1) shall be deemed not to be interrupted by such absence, except for the receipt of pay or other compensation for the period of such absence and he shall be entitled to participate in insurance, pensions, retirement plans or other benefits offered by the employer pursuant to established rules and practices relating to employes on furlough or leave of absence in effect with the employer at the time such person entered or was enlisted, inducted or ordered into such forces and service, and shall not be discharged from such

position without cause within one year after such restoration; and such discharge is subject to all federal or state law affecting any municipal or private employment; and subject to the provisions of contracts that may exist between employer and employe. Each county, town, city or village shall contribute or pay from September 16, 1940, all contributions of the employer to the applicable and existent pension, annuity or retirement system as though the service of any such employe had not been interrupted by such military service. In the case of teachers such payment shall be made as provided in ch. 42.

(3) In case any employer fails or refuses to comply with the provisions of subs. (1) and (2), any court of record whether created by general or special act in the proper county having jurisdiction of an action on contract for an amount exceeding $500 may, upon the filing of a motion, petition or other appropriate pleading and on reasonable notice, which shall not be less than 10 days, to such employer by the person entitled to the benefits of such provisions, specifically require such employer to comply with such provisions, and, as an incident thereto, compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case and shall advance it on the calendar. No fees or court costs shall be taxed against the person so applying for such benefits. The place of the commencement of the action or proceeding hereunder against a private employer, and the trial or hearing thereof, shall be in any county in which the employment took place or in which such private employer maintains a place of business, and in all other cases shall be as provided in s. 801.50. No person who is appointed in the service of the state or of any county, city or village to fill the place of a person so entering the federal armed forces shall acquire permanent tenure during such period of replacement service.

(4) Any individual or employer aggrieved by the decision of the court provided in sub. (3) may appeal in accordance with the provisions of appealable orders referred to in ch. 817; and the employe need not file an appeal bond for the security for costs on said appeal.

(5) The restoration of classified employes of the state shall be governed by s. 16.26. The restoration of unclassified state employes shall be governed by this section.

History: 1971 c. 270 s. 104; Sup. Ct. Order, 67 W (2d) 773.

TITLE VII.

Charitable, Curative, Reformatory And Penal Institutions And Agencies.

CHAPTER 47

VOCATIONAL REHABILITATION; RELIEF OF THE HANDICAPPED

SUBCHAPTER I

RELIEF AND REHABILITATION OF THE HANDICAPPED

47.05 Services to the blind. (1) CREATION. A program of services to the blind is established in the department.

(4) PRIVATE WORKSHOPS AND REHABILITATION CENTERS. The department may receive and accept gifts and donations, including gifts and donations from persons benefited under this section, which may be offered unconditionally, for the purposes of establishing private, nonprofit workshop and rehabilitation facilities for the rehabilitation of visually handicapped persons. All moneys received as gifts or donations shall be paid to the state treasurer and shall constitute a special account in the general fund to be used under the direction of the department for the vocational rehabilitation of persons qualifying for this purpose. A full report of such gifts and donations, together with the names of the donors, the amounts contributed by each and all disbursements therefrom shall be included in the annual report of the department.

CHAPTER 48

CHILDREN'S CODE

GENERAL PROVISIONS

48.02 Definitions. In this chapter the following words and phrases have the designated meanings:

(8) "Department" means the department of health and social services unless otherwise specified in the section.

48.027 Child custody jurisdiction. All proceedings relating to the custody of children shall comply with the requirements of ch. 822.

History: 1975 c. 283.

COMMUNITY SERVICES

48.79 Powers of the department. The department shall have authority and power:

(1) To collect and to collaborate with other agencies in collecting statistics and information useful in determining the cause and amount of delinquency and crime in this state or in carrying out the powers and duties of the department.

(2) To render assistance to communities in their efforts to combat delinquency and social breakdown likely to cause delinquency and crime and assist them in setting up programs for co-ordinating the total community program, including the improvement of law enforcement.

(3) To assist schools in extending their particular contribution in locating and helping children vulnerable to delinquency and in improving their services to all youth.

(4) To assist communities in setting up recreational commissions and to assist them in extending and broadening recreational programs so as to reach all children.

(5) To assist in extending the local child care programs so as to reach all homes needing such help.

(6) To assist in recruiting and training voluntary leaders for youth-serving organizations.

(7) To assist localities in securing needed specialized services such as medical, psychiatric, psychological and social work services when existing agencies are not able to supply them.

(8) To assist localities in making surveys of needs and available resources.

(9) To assist in appraising the achievement of local programs.

(10) To serve in a general consultative capacity, acting as a clearing house, developing materials, arranging conferences and participating in public addresses and radio programs.

(11) To develop and maintain an enlightened public opinion in support of a program to control delinquency.

MISCELLANEOUS PROVISIONS

48.981 Reports on abused or injured children. (1) A physician or surgeon being of the opinion as specified in s. 905.04 (4) (e), or a nurse, hospital administrator, dentist, social worker or school administrator having reasonable cause to believe that a child brought to him or coming before him has had physical injury or other abuse inflicted upon him by another, other than by accidental means, shall orally report the same and the facts and circumstances forming the opinion. The report shall be made immediately by telephone or otherwise, and followed by a report in writing to a county child welfare agency specified in s. 48.56 (1), the sheriff of the county or the city police department. The recipient of the report shall notify the other receivers of reports within 48 hours. When the recipient of the report is the sheriff of the county or city police department, he shall make an investigation consistent with the facts and circumstances described in the report and take whatever emergency action is necessary for the protection of the child. If the sheriff or city police department determines that legal action is necessary he shall refer the case to the district attorney for criminal prosecution. The county child welfare agency specified in s. 48.56 (1) shall investigate each report and act in accordance with its powers and duties as set forth in s. 48.57.

(2) Anyone, in good faith, participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall in so doing be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

(3) Anyone knowingly and wilfully violating this section by failing to file a report as required, may be fined not more than $100 or imprisoned not more than 6 months or both.

History: Sup. Ct. Order, 59 W (2d) R3.

48.985 Legal disability of minors removed when borrowing money for educational purposes. (1) Minors who enter into contracts for loans to defray the expenses of attending any college or university shall, if they are at least 18 years of age, have full legal capacity to act in their own behalf in the matter of such contracts,

and with respect thereto shall have all the rights, powers and privileges and be subject to the obligations of persons of full age.

(2) To come under this section, the text of any such loan contract shall state that the loan is to be used only to further the education of the recipient.

CHAPTER 53

PRISONS; STATE, COUNTY AND MUNICIPAL

53.32 Location of jails restricted. No jail, lockup or temporary place of confinement shall be erected within 300 feet of any public, private, parochial or vocational, technical and adult education school building or building used regularly or principally for school purposes, except that the distance from a vocational, technical and adult education school may be reduced to 150 feet if the jail proper and the entrance thereto are shielded from the view from the school property. Such distances shall be measured via the shortest distance along the street or highway.

History: 1971 c. 154.

CHAPTER 55

PROTECTIVE SERVICE SYSTEM

55.01 Definitions. In this chapter:

(1) "Agency" means any public or private board, corporation or association which is concerned with the specific needs and problems of mentally retarded, developmentally disabled, mentally ill, alcoholic, drug dependent and aging persons, including a community developmental disability services board under s. 51.437, a community board established pursuant to s. 51.42 or a county board of public welfare.

(2) "Developmentally disabled person" means any individual having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded individuals, which has continued or can be expected to continue indefinitely, substantially impairs the individual from adequately providing for his or her own care or custody, and constitutes a substantial handicap to the afflicted individual. The term does not include a person affected by senility which is primarily caused by the process of aging or the infirmities of aging.

(3) "Infirmities of aging" means organic brain damage caused by advanced age or other physical degeneration in connection therewith to the extent that the person so afflicted is substantially impaired in his ability to adequately provide for his own care or custody.

(4) "Interested person" means any adult relative or friend of a person to be protected under this subchapter; or any official or representative of a public or private agency, corporation or association concerned with his welfare.

(5) "Other like incapacities" means those conditions incurred at any age which are the result of accident, organic brain damage, mental or physical disability or continued consumption or absorption of substances, producing a condition which substantially impairs an individual from adequately providing for his own care or custody.

History: 1973 c. 284; 1975 c. 393, 430.

55.02 Protective service system; establishment. The department shall develop a statewide system of protective service for mentally retarded and other developmentally disabled persons, for aged infirm persons and for persons with other like incapacities incurred at any age in accordance with regulations and standards established by the department. The protective service system shall be designed to encourage independent living and to avoid protective placement whenever possible. The system shall utilize the planning and advice of agencies as defined in s. 55.01 (1), including the community boards under s. 51.42 or 51.437 or county boards of public welfare. The chairman of each county board of supervisors shall designate the community board under s. 51.42 or 51.437, the county board of public welfare or a joint mechanism of such boards to have the responsibility for local planning for the protective service system. The department and such boards shall cooperate in developing a coordinated system of services. With respect to this program, the department shall provide direct services and enter into contracts with any responsible agency, public or private, for provision of protective services.

History: 1973 c. 284; 1975 c. 393.

TITLE X.

Taxation.

CHAPTER 70

[illegible]AL PROPERTY TAXES

70.11 Property exempted from taxation. The property described in this section is exempted from general property taxes:

(3) COLLEGES AND UNIVERSITIES. (a) Grounds of any incorporated college or university, not exceeding 80 acres.

(b) The fact that college or university officers, faculty members, teachers, students or employes live on the grounds does not render them taxable. The leasing of land by a university or college, for educational or charitable purposes, shall not render it liable to taxation provided the income derived therefrom is used for the maintenance of the institution or for charitable purposes.

(c) All buildings, equipment and leasehold interests in lands described in ss. 36.06 (6) and 37.02 (3), 1971 Stats.

(4) EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS; HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES. Property owned and used exclusively by educational institutions offering regular courses 6 months in the year; or by churches or religious, educational or benevolent associations, including benevolent nursing homes and retirement homes for the aged, and also including property owned and used for housing for pastors and their ordained assistants, members of religious orders and communities, and ordained teachers, whether or not contiguous to and a part of other property owned and used by such associations or churches; or by women's clubs; or by domestic, incorporated historical societies; or by domestic, incorporated, free public library associations; or by fraternal societies operating under the lodge system (except university, college and high school fraternities and sororities), but not exceeding 10 acres of land necessary for location and convenience of buildings while such property is not used for profit. Property owned by churches or religious associations necessary for location and convenience of buildings, used for educational purposes and not for profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre limitation. Leasing such property to similar organizations for educational or benevolent purposes, where all the income derived therefrom is used for maintenance, shall not render the property taxable.

(4m) NONPROFIT HOSPITALS. Property which is used exclusively for the purposes of any hospital of 10 beds or more devoted primarily to the diagnosis, treatment or care of the sick, injured, or deformed, which hospital is owned and operated by a corporation, voluntary association, foundation or trust, no part of the net earnings of which inures to the benefit of any shareholder, member, director or officer, and which hospital is not operated principally for the benefit of or principally as an adjunct of the private practice of a doctor or group of doctors. The exemption herein granted shall be effective and apply to assessments of property for taxation made, or permitted to be made pursuant to s. 70.44, in the year 1957 and subsequent years.

(8) TAXED IN PART. Where property for which exemption is sought pursuant to this section is used in part for exempt purposes and in part for pecuniary profit, then the same shall be assessed for taxation at such percentage of the full market value of said real and personal property as shall fairly measure and represent the extent of such use for pecuniary profit. In determining the amount of such assessment, the term "pecuniary profit" as used in this section is hereby defined as the use of any portion of said premises or facilities for purposes not directly included within the objects of such organization for which use compensation is received, and the space so used, the period of such use, and all other factors tending to measure the extent thereof, shall be considered in fixing the amount of such assessment. The term "pecuniary profit" as used in this section shall not be deemed to

include such incidental income as that derived by such organization from occasional social affairs conducted principally by and for the members of such organization but which nonmembers may attend, nor any income derived from the resale of any merchandise given or donated to any charitable or benevolent society or association when such income is used for the purposes of such society or association. The use of "pecuniary profits" derived from the use of all or a portion of any premises shall not create an exemption in favor of such property. The occasional renting of such halls or buildings for public purposes shall not render them taxable, provided that all income derived therefrom be used for the upkeep and maintenance thereof.

CHAPTER 77

TAXATION OF FOREST CROPLANDS; REAL ESTATE TRANSFER FEES; SALES AND USE TAXES.

SUBCHAPTER III

GENERAL SALES AND USE TAX

77.56 Exemptions from use tax. (1) The storage, use or other consumption in this state of property, the gross receipts from the sale of which are reported to the department in the measure of the sales tax, is exempted from the use tax.

(2) The loan by an automobile dealer of a motor vehicle to any school or school district for a driver training educational program conducted by the school or school district is exempt from the use tax. If the dealer makes any other use of the vehicle except retention, demonstration or display while holding it for sale in the regular course of business, the use is taxable to the dealer under s. 77.53 as of the time the property is first so used, and the sales price of the vehicle to the dealer is the measure of the tax.

TITLE XIII.

Regulation of Industry.

CHAPTER 101

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

SUBCHAPTER I

REGULATION OF INDUSTRY: GENERAL PROVISIONS

101.01 Definitions. (1) In chs. 101 to 106, and 108:

(a) "Department" means the department of industry, labor and human relations.

(b) "Commission" means the industry, labor and human relations commission.

(c) "Commissioner" means a member of the industry, labor and human relations commission.

(d) "Deputy" means any person employed by the department designated as a deputy, who possesses special, technical, scientific, managerial or personal abilities or qualities in matters within the jurisdiction of the department, and who may be engaged in the performance of duties under the direction of the commission, calling for the exercise of such abilities or qualities.

(e) "Order" means any decision, rule, regulation, direction, requirement or standard of the department, or any other determination arrived at or decision made by the department.

(f) "General order" means such order as applies generally throughout the state to all persons, employments, places of employment or public buildings, or all persons, employments or places of employment or public buildings of a class under the jurisdiction of the department. All other orders of the department shall be considered special orders.

(g) "Local order" means any ordinance, order, rule or determination of any common council, board of aldermen, board of trustees or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the department has jurisdiction.

(2) The following terms as used in ss. 101.01 to 101.25, shall be construed as follows:

(a) "Place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employes for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1) which serves 20 or fewer unrelated residents, except for the purposes of s. 101.11.

(b) The term "employment" shall mean and include any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged, except in such private domestic service as does not involve the use of mechanical power and in farm labor as used in par. (a).

(c) The term "employer" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any agent, manager, representative or other person having control or custody of any employment, place of employment or of any employe.

(d) The term "employe" shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

(e) The term "frequenter" shall mean and include every person, other than an employe, who may go in or be in a place of employment or public building under circumstances which render him other than a trespasser.

(f) The term "welfare" shall mean and include comfort, decency and moral well-being.

(g) The term "safe" or "safety" as applied to an employment or a place of employment or a public building, shall mean such freedom from danger to the life, health, safety or welfare of employes or frequenters, or the public, or tenants, or firemen, and such reasonable means of notification, egress and escape in case of fire, and such freedom from danger to adjacent buildings or other property, as the nature of the employment, place of employment, or public building, will reasonably permit.

(h) "Public building" means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1) which serves 20 or fewer unrelated residents.

(i) The term "owner" shall mean and include every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi-public corporations as well as any manager, representative, officer, or other person having ownership, control or custody of any place of employment or public building, or of the construction, repair or maintenance of any place of employment or public building, or who prepares plans for the construction of any place of employment or public building. Said ss. 101.01 to 101.25 shall apply, so far as consistent, to all architects and builders.

History: 1971 c. 185 ss. 1, 3; 1971 c. 228 ss. 15, 44; 1975 c. 413, 421.

Note: Subs. (2) (a) and (b) were amended by Ch. 413, laws of 1975, published June 5, 1976. The effective date of Ch. 413 was stated in section 20 as follows:

"The department shall promulgate rules under section 50.01 within one year of the effective date of this act. The act shall take effect upon implementation of the rules so promulgated."

In a safe-place action by a plaintiff injured through contact with home power lines while installing aluminum trim on the premises, the power lines did not constitute a place of employment under (2) (a), for although a "process or operation" was carried on by the transmission of electricity through the lines, no person was employed by the power company on the premises at the time of the injury. Barthel v. Wisconsin Electric Power Co. 69 W (2d) 446, 230 NW (2d) 863.

101.02 Powers, duties and jurisdiction of department. It shall be the duty of the department, and it shall have power, jurisdiction and authority:

(15) (a) The department has such supervision of every employment, place of employment and public building in this state as is necessary adequately to enforce and administer all laws and all lawful orders requiring such employment, place of employment or public building to be safe, and requiring the protection of the life, health, safety and welfare of every employe in such employment or place of employment and every frequenter of such place of employment, and the safety of the public or tenants in any such public building. This paragraph shall not apply to rural school buildings and, after October 31, 1975, where issues of employer-employe relationship are covered by federal standards enforced by the occupational safety and health administration.

(b) To administer and enforce, so far as not otherwise provided for in the statutes, the laws relating to child labor, laundries, stores, employment, licensed occupations, school attendance, bakeries, employment offices, intelligence offices and bureaus, manufacture of cigars, sweatshops, corn shredders, woodsawing machines, fire escapes and means of egress from buildings, scaffolds, hoists, ladders and other matters relating to the erection, repair, alteration or painting of buildings and structures, and all other laws protecting the life, health, safety and welfare of employes in employments and places of employment and frequenters of places of employment.

(c) Upon petition, after January 1, 1912, by any person that any employment or place of employment or public building is not safe, the department shall proceed with or without notice, to make such investigation as may be necessary to determine the matter complained of.

(d) After such hearing as may be necessary, the department may enter such order relative thereto as may be necessary to render such employment or place of employment or public building safe.

(e) Whenever the department shall learn that any employment or place of employment or public building is not safe it may of its own motion, summarily investigate the same, with or without notice, and enter such order as may be necessary relative thereto.

(f) To investigate, ascertain and determine such reasonable classifications of persons, employments, places of employment and public buildings, as shall be necessary to carry out the purposes of ss. 101.01 to 101.25.

(g) Any commissioner or deputy of the department may enter any place of employment or public building, for the purpose of collecting facts and statistics, examining the provisions made for the health, safety and welfare of the employes, frequenters, the public or tenants therein and bringing to the attention of every employer or owner any law, or any order of the department, and any failure on the part of such employer or owner to comply therewith. No employer or owner shall refuse to admit any commissioner or deputy of the department to his place of employment or public building.

(h) To investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employes of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders.

(i) To ascertain and fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employes in employments and places of employment or frequenters of places of employment.

(j) To ascertain, fix and order such reasonable standards, rules or regulations for the construction, repair and maintenance of places of employment and public buildings, as shall render them safe.

(k) Every employer and every owner shall furnish to the department all information required by it to carry into effect ss. 101.01 to 101.25, and shall make specific answers to all questions submitted by the department relative thereto.

(l) Any employer receiving from the department any blanks calling for information required by it to carry into effect ss. 101.01 to 101.25, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case he is unable to answer any question, he shall give a good and sufficient reason for such failure, and said answer shall be verified under oath by the employer, or by the president, secretary or other managing officer of the corporation, if the employer is a corporation, and returned to the department at its office within the period fixed by the department.

History: 1971 c. 185 ss. 1 to 5, 7; 1971 c. 228 ss. 16, 42; 1975 c. 39, 94.

The department's authority to adopt rules covering the safety of frequenters while engaged in recreational activities at youth camps is limited by 101.10 (2), (3), (4) and (5), Stats. 1969, to orders relating to the construction of public buildings on the premises, but only as to the structural aspects thereof, and by 101.01 (1), Stats. 1969, as to places of employment, but only as to those camps operated for profit. 59 Atty. Gen. 35.

The department has the power to promulgate reasonable safety standards for the protection of employes while working in and around motor vehicles used on the job. 59 Atty. Gen. 181.

The department may inspect those parts of boarding homes designed for 3 or more persons where employes work or those used by the public, but not interiors of private dwellings. It has no authority to license or register boarding homes nor to charge an inspection fee based upon number of beds or rooms. 62 Atty. Gen. 107.

The department cannot enact a rule which would alter the common law rights and duties of adjoining landowners with respect to lateral support, although the department may specify 30 days as the minimum safety period in which an excavating owner must give notice to a neighbor of an intent to excavate. 62 Atty. Gen. 287.

101.11 Employer's duty to furnish safe employment and place. (1) Every employer shall furnish employment which shall be safe for the employes therein and shall furnish a place of employment which shall be safe for employes therein and for frequenters thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employes and frequenters. Every employer and every owner of a place of employment or a public building now or hereafter constructed shall so construct, repair or maintain such place of employment or public building as to render the same safe.

(2) (a) No employer shall require, permit or suffer any employe to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards, or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes and frequenters; and no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

(b) No employe shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, nor interfere in any way with the use thereof by any other person, nor shall any such employe interfere with the use of any method or process

adopted for the protection of any employe in such employment or place of employment or frequenter of such place of employment, nor fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employes or frequenters.

(3) This section applies to community-based residential facilities as defined in s. 50.01 (1).

History: 1971 c. 185; 1975 c. 413.

Note: Sub. (3) was created by Ch. 413, laws of 1975. For the effective date of Ch. 413, see note following 101.01.

See note to 895.04[illegible], citing Lovesee v. Allied Development Corp. 45 W (2d) 340, 173 NW (2d) 196.

Where an apartment complex was managed for a fee by a management company, the company was carrying on a business there. Reduction of rent to one of the tenants for caretaking services constituted employment on the premises. A tenant who fell on the icy parking lot after the caretaker knew of the condition need only prove negligence in maintaining the premises. Wittka v. Hartnell, 46 W (2d) 374, 175 NW (2d) 248.

A public sidewalk is not made a place of employment merely because an employer constructed it and kept it free of ice and snow. Petroski v. Eaton Yale & Towne, Inc. 47 W (2d) 617, 178 NW (2d) 53.

The fact that a violation of the safe-place statute is found puts the burden on the owner to rebut the presumption of causation but does not establish as a matter of law that the defendant's negligence was greater than the plaintiff's. Frederick v. Hotel Investments, Inc. 48 W (2d) 429, 180 NW (2d) 562.

A store must be held to have had constructive notice of a dangerous condition when it displayed shaving cream in spray cans on a counter and a 70-year old woman fell in cream sprayed on the white floor. Steinhorst v. H. C. Prange Co. 48 W (2d) 679, 180 NW (2d) 525.

Mere existence of a step up into a hospital lavatory is not an unsafe condition. Prelipp v. Wausau Memorial Hospital, 50 W (2d) 27, 183 NW (2d) 24.

Failure to light a parking lot can support a safe-place action but the evidence must show how long the light was burned out to constitute constructive notice. Low v. Siewert, 54 W (2d) 251, 195 NW (2d) 451.

A parking lot owned by a city which is a continuation of a store parking lot, used by the public for attending the city zoo and the store, even though maintained by the private property owner, is not a place of employment. Gordon v. Schultz Savo Stores, Inc. 54 W (2d) 692, 196 NW (2d) 633.

Detailed construction specifications and the presence of engineers to insure compliance does not manifest control over the project so as to make the commission liable. Berger v. Metropolitan Sewerage Comm. 56 W (2d) 741, 203 NW (2d) 87.

In a safe-place action the employe's contributory negligence is less when his act or omission has been committed in the performance of his duties. McCrossen v. Nekoosa-Edwards Paper Co. 59 W (2d) 245, 208 NW (2d) 148.

A pier at a beach open to the public for a fee constitutes a place of employment. Any distinction between licensees and invitees is irrelevant, and the statute imposes a higher duty as to safety than the common law. Gould v. Allstar Ins. Co. 59 W (2d) 355, 208 NW (2d) 388.

A private road on the ground of a private racetrack which connected the track and a parking lot is subject to this section as to frequenters. Gross v. Denow, 61 W (2d) 40, 212 NW (2d) 2.

Causal negligence sustained where elevator had by-pass switch in violation of Wis. Adm. Code section Ind 4.60 (1) (e). Sampson v. Laskin, 66 W (2d) 318, 224 NW (2d) 594.

A one-eighth-inch variance in elevation between the sides of the ramp joint was too slight as a matter of law to constitute a violation of the safe-place statute. Balas v. St. Sebastian's Congregation, 66 W (2d) 421, 225 NW (2d) 428.

An employer may be held liable under the safe-place statute not only where he fails to construct or maintain safety-structures such as a fence, but also where he knowingly permits employes or frequenters to venture into a dangerous area. Kaiser v. Cook, 67 W (2d) 460, 227 NW (2d) 50.

101.12 Approval and inspection of public buildings and places of employment and components. (1) The department shall require the submission of essential drawings, calculations and specifications for public buildings, public structures and places of employment including the following components:

(a) Heating, ventilation, air conditioning and fire detection, prevention or suppression systems.

(b) Industrial exhaust systems.

(c) Elevators, escalators, ski lift and towing devices and power dumbwaiters.

(d) Stadiums, grandstands and bleachers.

(e) Amusement and thrill rides equipment.

(2) Plans of said buildings, structures and components shall be examined for compliance with the rules of the department and a statement of the examination returned to the designer and owner before construction is started. Nothing in this section shall relieve the designer of the responsibility for designing a safe building, structure or component.

(3) The department shall:

(a) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by cities of the 1st class provided the same are examined in a manner approved by the department.

(b) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by cities of the 2nd and 3rd classes provided the same are examined in a manner approved by the department. The department shall determine and certify the competency of all such examiners.

(c) Determine and certify the competency of insurance company inspectors of boilers, unfired pressure vessels, refrigeration plants, elevators, escalators and power dumbwaiters.

(d) Accept inspections at no cost performed by insurance company inspectors for whom evidence of competency has been furnished to the department.

(e) Approve inspection service maintained or employed by owners or operators of boilers and unfired pressure vessels.

(f) Accept inspections at no cost performed by approved owner or operator inspection service and provide shop inspection service when deemed necessary.

(g) Accept inspection at no cost when performed by qualified and authorized inspectors in the employ of cities of the 1st, 2nd and 3rd classes for the inspection of buildings and equipment located within the corporate limits of such cities.

(h) Require all local officers not authorized by the department to grant approvals as provided in pars. (a) and (b) to deny permits or licenses

for construction or use of public buildings, public structures and places of employment until the required drawings and calculations have been examined by the department.

(4) Every architect and every engineer submitting plans for the construction of any structure using public funds shall, prior to the letting of final bids on such structures, submit a written report, indicating whether such structure meets or does not meet federal fallout shelter engineering standards, to the contracting agency.

History: 1971 c. 185; 1971 c. 228 s. 42; 1973 c. 326.

The state statutes and building code have not preempted the field as to school buildings; local building codes apply to the extent that they are not inconsistent. Hartford Union High School v. Hartford, 51 W (2d) 591, 187 NW (2d) 849.

101.13 Physically disabled persons; building requirements. (1) In this section, "access" means the physical characteristics of a place which allow persons with functional limitations caused by impairments of sight, hearing, coordination or perception or persons with semiambulatory or nonambulatory disabilities to enter, circulate within and leave a place of employment or public building and to use the public toilet facilities therein without assistance.

(1m) The department shall by rule provide minimum requirements to facilitate the use of public buildings by physically disabled persons where traffic might reasonably be expected by such persons.

(2) (a) Any place of employment or public building, the initial construction of which is commenced after July 1, 1970, but prior to May 27, 1976, shall be so designed and constructed as to provide reasonable means of ingress and egress by the physically disabled with the exception of:

1. Apartment houses with less than 20 units, row houses and rooming houses;

2. Convents and monasteries;

3. Jails or other places of detention;

4. Garages, hangars and boathouses;

5. All buildings classified as hazardous occupancies;

6. Warehouses;

7. State buildings specifically built for field service purposes such as but not limited to conservation fire towers, fish hatcheries, tree nursery buildings; and

8. University residence halls at universities which have at least 3 residence halls for men and 3 residence halls for women so constructed as to allow physically disabled persons reasonable means of ingress and egress to such buildings.

(b) The requirements of par. (a) may be accomplished by at least one ground or street level entrance and exit without steps, by ramps with slopes not more than one foot of rise in 12 feet, coated with a nonskid surface, or by elevator or such other arrangement as may be reasonably appropriate under the circumstances and which meets with the approval of the department or in lieu thereof with the approval of the municipality wherein the building is located. The doors of such entrance and exit must have a clear opening of at least 40 inches in width and shall otherwise conform to the department building code.

(c) If any ground or street level entrance or exit is not so designed or constructed a sign shall be placed at such entrance or exit indicating the location of the entrance or exit available for wheelchair service.

(d) Any place of employment or public building, unless exempted by rule of the department, the initial construction of which is commenced on or after May 27, 1976, shall be designed and constructed so as to provide reasonable means of access. Buildings, as defined in s. 703.02 (5), of 2 stories or less in height shall be exempt from requirements relating to parking space, ramps and grade-level entrances.

(e) The department shall by rule provide minimum regulations to ensure the access to and use of buildings prescribed in pars. (a) to (d).

(3) Any place of employment or public building subject to sub. (2) shall be so designed and constructed to allow physically disabled persons reasonable means of access from a parking lot, if any, ancillary to such buildings.

(4) The owner of any building who fails to meet the requirements of this section may be required to reconstruct the same by mandatory injunction in a circuit court suit brought by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(5) (a) Every place of employment and public building, except those described in sub. (2) (a) 1 to 8, the construction of which is begun after May 24, 1974 but prior to May 27, 1976, on each floor that is accessible to disabled persons, including persons in wheelchairs, which has public toilets shall have:

1. All public toilet rooms and at least one toilet compartment therein so designed and constructed that they will be suitable for entry and use by handicapped persons, including persons in wheelchairs;

2. The toilet compartment specified under par. (a) so designed and constructed to allow sufficient space between the front entrance of the compartment and adjacent furniture, fixtures or walls to permit the compartment door to open at least 95 and to allow a person in a wheelchair ample room to readily maneuver himself or the wheelchair into the compartment; and

3. At least one lavatory, sink, mirror and towel dispenser or hand drier in each public toilet room accessible to a disabled person, including a person in a wheelchair, if such item is provided.

(b) Within 90 days after May 24, 1974, the department shall adopt, by rule, specifications to effect the requirements of par. (a). The department, in so adopting rules, shall consider the specifications established in the most current revision of "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped", published by the American standards association of New York.

(6) (a) As used in this subsection, "remodeling" means to substantially improve, alter, extend or otherwise change the structure of a building or change the location of exits, but shall not include maintenance, redecoration, reroofing or alteration of mechanical or electrical systems.

(b) If more than 50% of the interior square footage of a public building is to undergo proposed remodeling, the entire building shall be made to conform to sub. (2) (d) and (e), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(c) If 25% to 50% of the interior square footage of a public building is to undergo proposed remodeling, that part of the building which is to be remodeled shall conform to sub. (2) (d), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(d) If less than 25% of the interior square footage of a public building is to undergo proposed remodeling, the remodeling is not subject to sub. (2) (d) and (e) unless the alteration involves work on doors, entrances, exits or public toilet rooms in which case such doors, entrances, exits or public toilet rooms shall be made to conform to sub. (2) (d) and (e), notwithstanding whether the building was constructed prior to, on or after July 1, 1970, and any rules issued under this section.

(e) If remodeling is undertaken pursuant to a plan whereby the project is done in stages which, taken together, add up to a portion of the public building subjecting the remodeling to the limits specified in par. (b) or (c), the appropriate paragraph shall be complied with by the time the remodeling under the plan is completed.

(f) In the case of remodeling in a building having vertical transportation with adequate elevator openings to meet disabled requirements:

1. If the building has 5 floors or less, accessible toilet room accommodations for each sex shall be provided for the disabled on at least one floor.

2. If the building has more than 5 floors, in addition to the accommodations required by subd. 1, accessible toilet room accommodations for each sex shall be provided to serve each additional 5 floors or fraction thereof, and shall be located conveniently throughout the building to facilitate their use.

(g) The owner of any public building who fails to comply with this subsection may be compelled to meet its requirements in a circuit court suit by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(h) Each toilet room accommodation provided for disabled persons as required under this section shall be identified on its entrance as a disabled accommodation, and directions to such accommodations shall appear at the building's primary entrance.

(7) The international symbol of accessibility as adopted by the rehabilitation international in 1969 is established as the official state symbol designating buildings and facilities constructed and designed to be accessible. The symbol may be used only in buildings or other facilities, or parts thereof, which meet the standards for access established by rule of the department. If anyone uses or causes the use of the symbol in violation of department standards, the department shall order the discontinuance of such use until such standards are met. Whoever fails to comply with a department order under this subsection shall be fined $50.

History: 1971 c. 185; 1971 c. 228 ss. 17, 42, 44; 1973 c. 201, 202, 336; 1975 c. 276.

While neither the U.S. nor Wisconsin Constitutions compels states to require that public buildings and seats of government be constructed and maintained as to be accessible to the physically handicapped, the legislature has an affirmative duty to address this problem and assure equal access to all constituted classes of citizens, including the physically handicapped. 63 Atty. Gen. 87.

101.14 Fire inspections, prevention, detection and suppression. (1) (a) The department may make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering firemen in case of fire.

(b) The commission and its deputies shall have the right at all reasonable hours to enter into and upon all buildings, premises and public thoroughfares excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to the fire hazard or to the prevention of fire.

(c) The department is hereby empowered and directed to provide the form of a course of study in fire prevention for use in the public schools, dealing with the protection of lives and property against loss or damage as a result of preventable fires, and transmit the same by the first day of August in each year to the state superintendent of public instruction.

(d) The department may prepare and provide suitable forms for distribution to the school systems in the state, for the purpose of providing uniform reports on fire drills conducted during the year in accordance with s. 118.07 (2).

(2) (a) The chief of the fire department in every city, village or town, except cities of the 1st class, is hereby constituted a deputy of the department, subject to the right of the commission to relieve any such chief from his duties as such deputy for cause, and upon such suspension to appoint some other person to perform the duty imposed upon such deputy. The commission may appoint either the chief of the fire department or the building inspector as its deputy in cities of the 1st class.

(b) Such chief of the fire department is required, by himself or by officers or members of his fire department designated by him for that purpose, to inspect all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires.

(c) Such inspection, except in cities of the 1st class, shall be made at least once in 6 months in all of the territory served by such fire department, and not less than once in 3 months in such territory as the common council has designated or thereafter designates as within the fire limits or as a congested district subject to conflagration, and oftener as the chief of the fire department orders. Each 6-month period shall begin on January 1 and July 1, and each 3-month period on January 1, April 1, July 1 and October 1 of each year. In cities of the 1st class such inspection shall be made not less than once in 4 months in each year throughout the entire city, and oftener as the chief of the fire department orders. Each such 4-month period shall begin on January 1, May 1 and September 1 of each year.

(d) The chiefs of fire departments in every city of the 1st, 2nd and 3rd classes shall designate a sufficient number of inspectors to carry out this section.

(e) Written reports of inspection shall be made and kept on file in the office of the chief of the fire department in the manner and form required by the department.

(f) Such inspection shall be subject to the supervision and direction of the department, which shall upon examination certify to the commissioner of insurance after the expiration of each calendar year each such city, village or town where the inspections for such year have been made, and records thereof have been made and kept on file as required by law.

(g) A copy of any report showing a change in the hazard from the survey, or any violation of law or ordinance relating to the fire hazard upon any risk shall be given by the department to any inspection bureau making written request therefor.

(3) The department shall annually conduct training sessions and provide manuals and other materials and services to assist deputies and inspectors in the fulfillment of their duties under sub. (2).

(4) (a) The department shall make rules, pursuant to ch. 227, requiring the owner of each place of employment and public building which exceeds 60 feet in height to install such fire detection, prevention or suppression devices as will protect the property and the health, welfare and safety of all employers, employes and frequenters of each place of employment and public building. These rules shall require all such places and buildings, the construction of which is begun after July 3, 1974, to contain an automatic sprinkler system, as defined in s. 145.01 (8), on each floor. If the department determines that water would cause irreparable damage and undue economic loss if discharged in such places or buildings, it shall require a suppression device which has a substance other than water.

(b) Fire detection, prevention and suppression devices, installation of which may be required, include but are not limited to smoke and heat detection devices, standpipes and an automatic fire sprinkler system as defined in s. 145.01 (8).

(c) Each building, the construction of which is completed or is begun prior to July 3, 1974, shall be exempt from compliance with this subsection. Each building, the construction of which is begun after July 3, 1974, or additions to which are begun after such date, shall have the necessary devices installed at the time of its construction.

(d) Whoever violates this subsection may be fined not less than $100 but not more than $500 for each day of violation.

(e) The department may inspect all buildings covered by this subsection and may issue such orders as may be necessary to assure compliance with it.

History: 1971 c. 185, 228; 1973 c. 324, 326, 336; 1975 c. 39, 94.

Cross Reference: See 66.122 for provision authorizing special inspection warrants.

101.18 Electric fences. The department shall ascertain, fix and order such reasonable standards, rules or regulations for the erection, construction, repair and maintenance of electric fences as shall render them safe.

History: 1971 c. 185, 228.

101.211 Lunchrooms. The department shall require a suitable space in which lunches may be eaten in any place of employment if found by the commission to be reasonably necessary for the protection of the life, health, safety and welfare of employes therein.

History: 1971 c. 185, 228.

CHAPTER 102

WORKER'S COMPENSATION

102.04 Definition of employer. (1) The following shall constitute employers subject to the provisions of this chapter, within the meaning of s. 102.03:

(a) The state, each county, city, town, village, school district, sewer district, drainage district and other public or quasi-public corporations therein.

(b) 1. Every person who usually employs 3 or more employes, whether in one or more trades, businesses, professions or occupations, and whether in one or more locations.

2. Every person who usually employs less than 3 employes, provided the person has paid wages of $500 or more in any calendar quarter for services performed in this state. Such employer shall become subject as of the first day of the calendar year next succeeding such quarter.

3. This paragraph shall not apply to farmers or farm labor.

(c) Every person engaged in farming who on any 20 consecutive or nonconsecutive days during a calendar year employes 6 or more employes, whether in one or more locations. The provisions of this chapter shall apply to such employer 10 days after the twentieth such day.

(d) Every person to whom pars. (a), (b) and (c) are not applicable, who has any person in service under any contract of hire, express or implied, oral or written, and who, at or prior to the time of the injury to the employe for which compensation may be claimed, shall, as provided in s. 102.05, have elected to become subject to the provisions of this chapter, and who shall not, prior to such accident, have effected a withdrawal of such election.

(2) Members of partnerships shall not be counted as employes. Except as provided in s. 102.07 (5) (a), a person under contract of hire for the performance of any service for any employer subject to this section (1961) shall not constitute an employer of any other person with respect to such service and such other person shall, with respect to such service, be deemed to be an employe only of such employer for whom the service is being performed.

(3) As used in this chapter "farming" means the operation of farm premises owned or rented by the operator. "Farm premises" means areas used for operations herein set forth, but does not include other areas, greenhouses or other similar structures unless used principally for the production of food and farm plants. "Farmer" means any person engaged in farming as defined. Operation of farm premises shall be deemed to be the planting and cultivating of the soil thereof; the raising and harvesting of agricultural, horticultural or arboricultural crops thereon; the raising, breeding, tending, training and management of livestock, bees, poultry, fur-bearing animals, wildlife or aquatic life, or their products, thereon; the processing, drying, packing, packaging, freezing, grading, storing, delivering to storage, to market or to a carrier for transportation to market, distributing directly to consumers or marketing any of the above-named commodities, substantially all of which have been planted or produced thereon; the clearing of such premises and the salvaging of timber and management and use of wood lots thereon, but not including logging, lumbering or wood cutting operations unless conducted as an accessory to other farming operations; the managing, conserving, improving and maintaining of such premises or the tools, equipment and improvements thereon and the exchange of labor, services or the exchange of use of equipment with other farmers in pursuing such activities. The operation for not to exceed 30 days during any calendar year, by any person deriving the person's principal income from farming, of farm machinery in performing farming services for other farmers for a consideration other than exchange of labor shall be deemed farming. Operation of such premises shall be deemed to include also any other activities commonly considered to be farming whether conducted on or off such premises by the farm operator.

History: 1975 c. 199.

When an employe simultaneously performs service for 2 employers under their joint control and the service for each is the same or closely related, both employers are liable for workmen's compensation. Insurance Co. of N. A. v. ILHR Dept. 45 W (2d) 361, 173 NW (2d) 192.

102.07 Employe defined. "Employe" as used in this chapter means:

(1) Every person, including all officials, in the service of the state, or of any municipality therein whether elected or under any appointment, or contract of hire, express or implied, and whether a resident or employed or injured within or without the state. The state and any municipality may require a bond from a contractor to protect it against compensation to employes of such contractor or employes of a subcontractor under him.

(2) Any peace officer shall be considered an employe while engaged in the enforcement of peace or in the pursuit and capture of those charged with crime.

(3) Nothing herein contained shall prevent municipalities from paying teachers, policemen, firemen and other employes full salaries during disability, nor interfere with any pension funds, nor prevent payment to teachers, policemen or firemen therefrom.

(4) Every person in the service of another under any contract of hire, express or implied, all helpers and assistants of employes, whether paid by the employer or employe, if employed with the knowledge, actual or constructive, of the employer, including minors (who shall have the same power of contracting as adult employes), but not including (a) domestic servants, (b) any person whose employment is not in the course of a trade, business, profession or occupation of his employer, unless as to any of said classes, such employer has elected to include them. Item (b) shall not operate to exclude an employe whose employment is in the course of any trade, business, profession or occupation of his employer, however casual, unusual, desultory or isolated any such trade, business, profession or occupation may be.

(11) The commission shall by rule prescribe classes of volunteer workers who may, at the election of the person for whom the service is being performed, be deemed to be employes for the purposes of this chapter. Election shall be by endorsement upon the worker's compensation insurance policy with written notice to the department. In the case of an employer exempt from insuring liability, election shall be by written notice to the department. The commission shall by rule prescribe the means and manner in which notice of election by the employer is to be provided to the volunteer workers.

103.67 Minimum ages in various employments. (1) A minor 14 to 18 years of age shall not be employed or permitted to work in any gainful occupation during the hours he is required to attend school under s. 118.15 unless he has completed high school, except that minors under 18 may be employed in public exhibitions as provided in s. 103.78.

(2) A minor under 14 years of age shall not be employed or permitted to work in any gainful occupation at any time, except that:

(a) Minors 12 and over may be employed in school lunch programs of the school which they attend.

103.71 Conditions for issuance of permits. (1) Except as provided in s. 103.78, a permit shall not be issued authorizing any minor 14 to 18 years of age to be employed during the hours he is required to attend school under s. 118.15, unless he has completed high school. The department and its designated permit officers shall accept as evidence of the minor's completion of high school either:

(a) A diploma or certificate to this effect issued by the superintendent of public schools or by the principal of the public school last attended by such minor, or in the absence of both the aforementioned persons by the clerk of the proper school board; or

(b) A diploma or certificate to this effect issued by the superintendent of the parochial school system or by the principal of the parochial or private school last attended by such minor. Such superintendent, principal or clerk shall issue such diploma or certificate upon receipt of any application in behalf of any minor entitled thereto. As used in this paragraph the term "school district" shall apply to all regularly constituted school districts, including union free high school districts.

(2) A permit shall not be issued authorizing the employment of any minor under 14 years of age at any time, except minors under 14 as provided in s. 103.78, minors 12 and over in school lunch programs, minors 12 years and over engaged in agricultural pursuits, minors 12 and over in street trades as provided in ss. 103.21 to 103.31, and minors 12 and over as caddies on golf courses.

History: 1971 c. 271; 1973 c. 59, 183, 336; 1975 c. 94.

CHAPTER 104

MINIMUM WAGE LAW

104.01 Definitions. The following terms as used in sections 104.01 to 104.12 shall be construed as follows:

(1) The term "employer" shall mean and include every person, firm or corporation, agent, manager, representative, contractor, subcontractor or principal, or other person having control or direction of any person employed at any labor or responsible directly or indirectly for the wages of another.

(2) "Employe" means every person who is in receipt of or is entitled to any compensation for labor performed for any employer. This chapter does not apply to any employe engaged in the house to house delivery of newspapers to the consumer or engaged in direct retail sale to the consumer.

(3) The term "wage" and the term "wages" shall each mean any compensation for labor measured by time, piece or otherwise.

(4) The term "welfare" shall mean and include reasonable comfort, reasonable physical well-being, decency, and moral well-being.

(5) The term "living-wage" shall mean compensation for labor paid, whether by time, piece-work or otherwise, sufficient to enable the employe receiving it to maintain himself or herself under conditions consistent with his or her welfare.

(6) "Student learner" means a student who is receiving instruction in an accredited school and who is employed on a part-time basis, pursuant to a bona fide school training program. A "bona fide school training program" means a program authorized and approved by the department of public instruction or the board of vocational, technical and adult education, or other recognized educational body, and provided for part-time employment training which may be scheduled for a part of the work day or work week, supplemented by and integrated with, a definitely organized plan of instruction and where proper scholastic credit is given by the accredited school.

(7) "Sheltered workshop" means a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for handicapped workers and of providing such workers with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

(8) "Handicapped" worker means one whose earning capacity is impaired by age or physical or mental deficiency or injury and who is being served in accordance with the recognized rehabilitation program of a sheltered workshop within the facilities of such agency or in or about the home of the handicapped person.

Sections 104.01 to 104.12 do not apply to the state or its political subdivisions as employers, 62 Atty. Gen. 47.

104.07 Rules; license to employ; student learners; sheltered workshops. (1) The department of industry, labor and human relations shall make rules and grant licenses, to any employer who employs any employe unable to earn the living-wage theretofore determined upon, permitting such person to work for a wage which shall be commensurate with his ability and each license so granted shall establish a wage for the licensee.

(2) The department shall make rules and grant licenses to sheltered workshops to permit the employment of handicapped workers unable to earn the living-wage theretofore determined upon permitting such persons to work for a wage which shall be commensurate with his or her ability and productivity. A license granted to a sheltered workshop, under this section, may be issued for the entire workshop or a department thereof.

(3) No student learner or employe shall be employed at a wage less than the rate so established.

110.06 Rules and regulations; school bus certificate of compliance. (1) The administrator of the division of motor vehicles may make such reasonable and uniform orders, rules and regulations not inconsistent with law as he may deem necessary to the discharge of the powers, duties and functions vested in such division. He may also prescribe forms for applications, notices and reports required by law to be made to the division or which may be deemed necessary to the efficient discharge of all such powers, duties and functions.

(2) The administrator of the division of motor vehicles shall adopt and enforce such rules as he or she deems necessary in the interests of safety to cover the design, construction, inspection and operation of school busses. Such rules may, but need not, be uniform for each type of bus designated in s. 340.01 (56) (a). No rule adopted under this subsection shall become effective until approved by majority votes of the senate commerce committee and the assembly transportation committee.

(3) (a) Any person intending to purchase a motor vehicle to be used as a school bus shall prior to purchase give the seller notice in writing of the intended use.

(b) The seller shall then obtain a certificate of compliance with the conditions prescribed by the school bus regulations from the division of motor vehicles, which certificate shall be carried upon the vehicle at all times. Paragraph (a) shall not preclude a licensed motor vehicle dealer from securing a certificate of approval at any time.

(c) The seller of any such vehicle who fails to obtain a certificate of compliance prior to sale shall be liable to the purchaser for all repairs and improvements required by the school bus regulations for a period of 9 months after sale and shall be fined $50 for the 1st offense and $100 for the 2nd and each subsequent offense.

(d) Paragraphs (a) to (c) shall not apply to any school bus which carries and displays a certificate of compliance issued by the division of motor vehicles if the certificate is not more than one year old on the date of purchase.

(4) Violations of those orders, determinations and rules pertaining to chs. 115 to 118, 120, 121 and 341 to 349 shall be punished as provided by s. 341.04 (3) and those pertaining to ch. 194 as provided by s. 194.17.

(5) The orders and determinations, rules and regulations made by the administrator shall be subject to review in the manner provided in ch. 227.

History: 1975 c. 429.

CHAPTER 111

EMPLOYMENT RELATIONS

SUBCHAPTER II

FAIR EMPLOYMENT

111.31 Declaration of policy. (1) The practice of denying employment and other opportunities to, and discriminating against, properly qualified persons by reason of their age, race, creed, color, handicap, sex, national origin or ancestry, is likely to foment domestic strife and unrest, and substantially and adversely affect the general welfare of a state by depriving it of the fullest utilization of its capacities for production. The denial by some employers, licensing agencies and labor unions of employment opportunities to such persons solely because of their age, race, creed, color, handicap, sex, national origin or ancestry, and discrimination against them in employment, tends to deprive the victims of the earnings which are necessary to maintain a just and decent standard of living, thereby committing grave injury to them.

(2) It is believed by many students of the problem that protection by law of the rights of all people to obtain gainful employment, and other privileges free from discrimination because of age, race, creed, color, handicap, sex, national origin or ancestry, would remove certain recognized sources of strife and unrest, and encourage the full utilization of the productive resources of the state to the benefit of the state, the family and to all the people of the state.

(3) In the interpretation and application of this subchapter, and otherwise, it is declared to be the public policy of the state to encourage and foster to the fullest extent practicable the employment of all properly qualified persons regardless of their age, race, creed, color, handicap, sex, national origin or ancestry. This subchapter shall be liberally construed for the accomplishment of this purpose.

Summary discharge after 2 weeks of satisfactory employment of persons with history of asthma violated the fair employment act in that it constituted a discriminatory practice against the claimant based on handicap. Chicago, M., St. P. & P. RR. Co. v. ILHR Dept. 62 W (2d) 392, 215 NW (2d) 443.

The department is not limited to finding sex discrimination only where a 14th amendment equal protection violation could also be found. Wisconsin Telephone Co. v. ILHR Dept. 68 W (2d) 345, 228 NW (2d) 649.

The Wisconsin Fair Employment Act is more direct and positive in prohibiting sex discrimination in employment than is the basic constitutional guarantee of equal protection of the laws, and enforcement of the law is not limited by the "rational basis" or "reasonableness" test employed in 14th amendment cases. Ray-O-Vac v. ILHR Dept. 70 W (2d) 919, 236 NW (2d) 209.

Wisconsin's fair employment act: coverage, procedures, substance, remedies. 1975 WLR 696.

111.32 Definitions. When used in this subchapter:

(1) The term "labor organization" shall include any collective bargaining unit composed of employes.

(2) The term "employes" shall not include any individual employed by his parents, spouse or child.

(3) The term "employer" shall include this state and any employer as defined in s. 41.02 (4), but shall not include a social club, fraternal or religious association not organized for private profit.

Note: Chapter 31, laws of 1975, renumbered and amended sub. (3) and contained the following language on applicability:

"This act applies to complaints filed under subchapter II of chapter 111 of the statutes prior to and on the effective date of this act [July 15, 1975] and to causes of action arising under that subchapter which the statute of limitations has not extinguished".

(4) "Department" means the department of industry, labor and human relations.

(5) (a) "Discrimination" means discrimination because of age, race, color, handicap, sex, creed, national origin or ancestry, by an employer or licensing agency individually or in concert with others, against any employe or any applicant for employment or licensing, in regard to his hire, tenure or term, condition or privilege of employment or licensing and by any labor organization against any member or applicant for membership, and also includes discrimination on any of said grounds in the fields of housing, recreation, education, health and social welfare as related to a condition or privilege of employment.

(b) It is discrimination because of age:

1. For an employer, labor organization, or person in the fields of housing, recreation, education, health and social welfare, or any licensing agency, because an individual is between the ages of 40 and 65, to refuse to hire, employ, admit or license, or to bar or to terminate from employment such individual, or to discriminate against such individual in promotion, compensation or in terms, conditions or privileges of employment;

2. For any employer, licensing agency or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which implies or expresses any limitation, specification or discrimination respecting indi-

viduals between the ages of 40 and 65, or any intent to make such limitation, specification or discrimination;

3. For any employer, licensing agency or employment agency to discharge or otherwise discriminate against any person because he has opposed any discriminatory practices under this section or because he has made a complaint, testified or assisted in any proceeding under this section.

(c) Nothing in this subsection shall be construed to prevent termination of the employment of any person physically or otherwise unable to perform his duties, nor to affect any retirement policy or system of any employer where such policy or system is not a subterfuge to evade the purposes of this subsection, nor to preclude the varying of insurance coverage according to an employe's age; nor to prevent the exercise of an age distinction with respect to employment of persons in capacities in which the knowledge and experience to be gained might reasonably be expected to aid in the development of capabilities required for future advancement to supervisory, managerial, professional or executive positions.

(e) The prohibition against discrimination because of age shall not apply to hazardous occupations including, without limitation because of enumeration, law enforcement or fire fighting.

(f) It is discrimination because of handicap:

1. For an employer, labor organization, licensing agency or other person to refuse to hire, employ, admit or license, or to bar or to terminate from employment, membership or licensure any individual, or to discriminate against any individual in promotion, compensation or in terms, conditions or privileges of employment unless such handicap is reasonably related to the individual's ability adequately to undertake the job-related responsibilities of that individual's employment, membership or licensure.

2. For an employer to contribute a lesser amount to the fringe benefits, including life or disability insurance coverage, of any employe because of a handicap.

(g) It is discrimination because of sex:

1. For an employer, labor organization, licensing agency or person, on the basis of sex where sex is not a bona fide occupational qualification, to refuse to hire, employ, admit or license, or to bar or to terminate from employment or licensing any individual;

1m. For an employer, labor organization, licensing agency or person, on the basis of sex where sex is not a bona fide occupational qualification, to discriminate against any individual in promotion, compensation paid for equal or substantially similar work, or in terms, conditions or privileges of employment or licensing;

2. For any employer, licensing agency or employment agency to discharge or otherwise discriminate against any person because he has opposed any discriminatory practices under this section or because he has made a complaint, testified or assisted in any proceeding under this section.

3. For an employer, licensing agency, employment agency, or any publisher to print or circulate or cause to be printed or circulated any employment advertisement offering or requesting employment, publicizing employment opportunities or offering to help persons secure employment which is classified on the basis of sex, or which implies or expresses any preference, limitation, specification or discrimination based on sex, unless sex is a bona fide occupational qualification for the particular job involved.

4. For the purposes of this paragraph, sex is a bona fide occupational qualification where all of the members of one sex are physically incapable of performing the essential duties required by a job, or where the essence of the employer's business operation would be undermined if employes were not hired exclusively from one sex.

History: 1975 c. 31, 94, 275, 421.

The word "handicap", although not statutorily defined in (5), includes such diseases as asthma, which make achievement unusually difficult. Chicago, M., St. P. & P. R. R. Co. v. ILHR Dept. 62 W (2d) 392, 215 NW (2d) 443.

The differing treatment of pregnancy disability is not based upon a difference in type of disability, as contended by the employer, rather than upon the sex of the employe, since pregnancy is undisputedly sex-linked, and to isolate disabilities associated with pregnancy for less favorable treatment in a benefit plan designed to relieve the economic burden of physical incapacity constitutes discrimination by sex. Ray-O-Vac v. ILHR Dept. 70 W (2d) 919, 236 NW (2d) 209.

TITLE XIV.

Public Instruction.

CHAPTER 115

STATE SUPERINTENDENT; GENERAL CLASSIFICATIONS AND DEFINITIONS; HANDICAPPED CHILDREN

SUBCHAPTER I

GENERAL CLASSIFICATIONS AND DEFINITIONS

115.01 Classifications and definitions. In this title:

(1) PUBLIC SCHOOLS. Public schools are the elementary and high schools supported by public taxation.

(2) GRADES. The educational work of the public schools is divided into 12 grades, besides kindergarten, which are numbered from one to 12 beginning with the lowest. The first 8 grades are the elementary grades. Where reference is made to "elementary grades," the reference includes kindergarten, where applicable. The last 4 grades are the high school grades. A junior high school is a school in which only grades 7 to 9 or grades 7 to 10 are taught. A senior high school is a school in which only grades 10 to 12 are taught. This classification is not a limitation of the character of work or the studies that may be carried on in either the elementary or the high schools.

(20) DEPARTMENT. "Department" means the department of public instruction.

History: 1973 c. 90; 1975 c. 115, 189.

See note to 111.70, citing Bd. of Education v. WERC, 52 W (2d) 625, 191 NW (2d) 242.

SUBCHAPTER II

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

115.28 General duties. The state superintendent shall:

(2) SECTARIANISM. Exclude all sectarian books and instruction from the public schools.

(7) LICENSING AND CERTIFICATION OF TEACHERS, ETC. (a) License or certify all teachers for the public schools of the state, make rules and prescribe standards of attainment for the examination, licensing and certification of teachers within the limits prescribed in ss. 118.19 (2) and (3) and 118.195, file in his office all papers relating to state teachers' licenses and certificates and register each such license or certificate.

(b) Subject to the same rules and laws concerning qualifications of applicants and granting and revocation of licenses or certificates under par. (a), the state superintendent shall grant certificates and licenses to teachers in private schools, except that teaching experience requirements for such certificates and licenses may be fulfilled by teaching experience in either public or private schools. An applicant is not eligible for a license or certificate unless the state superintendent finds that the private school in which the applicant taught offered an adequate educational program during the period of the applicant's teaching therein. Private schools are not obligated to employ only licensed or certified teachers.

(c) License, certify and make rules and prescribe standards of attainment for the examination, licensing and certification of persons, including teachers, employed by special education programs as defined in s. 115.76 (10).

(d) Annually, establish fees for the certification or licensure of school and public library personnel sufficient to fund certification and licensing administrative costs.

(8) ADMISSIONS TO FIRST GRADE. Prescribe procedures, conditions and standards under which admissions to first grade may be made at an age earlier than that specified in s. 118.14 in exceptional cases.

(9) FEDERAL AIDS. Accept federal funds for any function over which the state superintendent has jurisdiction and act as the agent for the receipt and disbursement of such funds.

115.30 Forms and reports.

(3) On or before each October 15, each administrator of a public or private school system shall submit, on forms provided by the department, a statement of the enrollment on the 3rd Friday of September in the elementary and high school grades under his jurisdiction to the department which shall prepare such reports as will enable the public and private schools to make projections regarding school buildings, teacher supply and funds required.

(4) In his annual report under s. 15.04 (4), the state superintendent also shall report:

(a) The condition of all schools under his supervision.

(b) An abstract of the public school reports made to him.

(c) His visits to educational institutions.

(d) The work done by the department in the performance of its duties.

(e) Plans for improving the schools and advancing education.

(f) A summary of the receipts and disbursements of all schools under his jurisdiction.

(g) Such other matters as he deems appropriate.

SUBCHAPTER IV

CHILDREN WITH EXCEPTIONAL EDUCATIONAL NEEDS

115.76 Definitions. In this subchapter:

(1) "Administrator" means the administrator of the division for handicapped children.

(2) "Child" means any person under the age of 21 years, except as otherwise provided.

(3) "Child with exceptional educational needs" means any child who has a mental, physical, emotional or learning disability which, if the full potential of the child is to be attained, requires educational services to the child to supplement or replace regular education. Children with the following conditions, in addition to children with such other conditions as the state superintendent determines, may require educational services to supplement or replace regular education:

(a) Physical, crippling or orthopedic disability.

(b) Mental retardation or other developmental disabilities.

(c) Hearing impairment.

(d) Visual disability.

(e) Speech or language disability.

(f) Emotional disturbance.

(g) Learning disability.

(h) Pregnancy, including up to 2 months after the birth of the child or other termination of the pregnancy.

(i) Any combination of conditions named by the state superintendent or enumerated in pars. (a) to (h).

(4) "Division" means the division for handicapped children.

(5) "Expanded program" means any program which has increased its educational services, facilities or staff in such manner and degree as specified in written standards issued by the state superintendent.

(6) "Parent" includes a guardian.

(7) "Part of a program" means that portion of a program in which a child with a particular type of exceptional educational need participates.

(8) "Reduced program" means any program which has decreased its educational services, facilities or staff in the manner and degree specified in written standards issued by the state superintendent.

(9) "Regular education" means the educational program provided by a public or private school for children who do not have exceptional educational needs.

(10) "Special education" means any educational assistance required to provide an appropriate education program for a child with exceptional educational needs and any supportive or related service.

(11) "Institutional resident" means any person who has been admitted and is domiciled or cared for in or by a private or parochial special purpose residential care center.

History: 1973 c. 89, 333.

115.85 School district. (1) RESPONSIBILITY TO MAKE PROGRAMS AVAILABLE. (a) 1. Each school district shall ensure that appropriate special education programs are available to children with exceptional educational needs who have attained the age of 3 years and who reside in the school district.

2. A school district may make available appropriate special education programs to children with exceptional educational needs who have attained the age of 3 years and who reside in the school district and are full- or part-time institutional residents of private or parochial special purpose residential care centers specializing in the care and treatment of those children described in s. 115.76 (3) if the school district has provided such programs to such children prior to June 29, 1974.

(b) A school district may provide special education for preschool children under the age of 3 years and instruction for their parents. Such special education shall be subject to the approval

of and shall comply with requirements established by the state superintendent.

(c) The school board shall submit to the division any information it requires concerning special education in state or county facilities supervised by the division under s. 115.77 (3) (d) and shall advise the superintendent of each such facility.

(2) PLACEMENT IN APPROPRIATE PROGRAM. The school board after consultation with the multidisciplinary team and after the parent has consented in writing shall place in an appropriate special education program a child who has been recommended for special education by a multidisciplinary team and who resides in the school district. The board may delegate this responsibility in such manner and to such person as it deems appropriate, including the multidisciplinary team.

(a) If the school district, the county in which the child resides or the cooperative educational service agency for the school district in which the child resides operates an appropriate special education program, the child shall be placed in such program.

(b) If an agency enumerated in par. (a) does not operate a special education program which is appropriate for the child's needs, the child shall be placed in a program operated in this state by a public agency as near as possible to the place where the child resides. If the local school board utilizes this placement option, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

(c) If no public agency in this state operates an appropriate program the child shall be placed, with the approval of the state superintendent, in an appropriate public program in another state. If the local school board utilizes this placement option, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

(d) To provide a special education program which is appropriate to the child's needs, the school board may, upon approval of the state superintendent and if no equivalent public program is locally available, contract with a private special education service whose governing board, faculty, student body and teachings are not chosen or determined by any religious organization or for any sectarian purpose. If the local school board utilizes this placement option, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

(e) The school board may place a child with exceptional educational needs in a special education program at the home, residence or other location of the child only if there is a physician's statement in writing that the child is unable to attend school, as required under s. 115.80 (3) (e).

(3) SCHOOL DISTRICT PLAN. Annually, on or before August 15, each school board shall report to the department such information as it requires, including the following:

(a) The total number of children who reside in the district and who have been placed in special education programs under s. 115.85 (2), the exceptional educational needs of each such child and the school attended or special education received by each such child. The report shall also specify the number of children with exceptional educational needs who are known to the school district and who are under the age of 3 years and the exceptional educational needs of each such child.

(b) A description of the screening process for exceptional educational needs provided under s. 115.80 (2) to each child who enters public school in the district.

(c) A description of the special education programs in which children who reside in the district have been placed under sub. (2), the number of persons attending each pursuant to sub. (2) and the qualifications of the staff of each such special education program.

(d) An evaluation, in terms of the goals identified under s. 115.78 (5), of the progress made by each special education program in which children who reside in the district are placed under sub. (2).

(e) An evaluation of the progress made by each child who resides in a facility operated by the state or a county, who has attained the age of 3 years and whose parent resides in the district and a statement of the expected duration of the child's stay in such facility.

(f) Plans for new, expanded, or reduced public school special education programs or for discontinuation of any such program or part of such program.

History: 1971 c. 125 ss. 449, 522 (1); 1973 c. 89, 90, 333, 336; 1975 c. 39.

(2) (d), Stats. 1973, is constitutional. See note to art. I, sec. 18, citing State ex rel. Warren v. Nusbaum, 64 W (2d) 314, 219 NW (2d) 577.

Requirement of DPI that the options under (2) are to be considered sequentially and not alternatively, is a rational one. Though the state must provide each child with an equal educational opportunity, it is not necessarily required to do so in the context of a neighborhood or conveniently accessible setting. Panitch v. State of Wisconsin, 390 F Supp. 611.

115.86 Handicapped children's education board. (1) DEFINITIONS. In this section "board" means the county handicapped children's education board.

(8) TRANSPORTATION. The board may promulgate a plan for the transportation at county expense of children who are participating in special education programs under this section, special education programs operated at day care

centers or special education programs operated by a private organization within whose attendance area the child resides and which is situated not more than 5 miles beyond the boundaries of the area the board serves, as measured along the usually traveled route. The plan, upon approval of the state superintendent, shall govern the transportation of such children. Any such plan for transportation during the school term supersedes ss. 115.88 and 121.54 (3).

SUBCHAPTER V
SPECIAL EDUCATIONAL NEEDS

115.90 Definitions. (1) In this subchapter, "children with special educational needs", means preschool children to children in the 8th grade who have or are likely to have low levels of academic achievement, especially in relation to social and economic factors.

(2) Any public school district which is determined to have children with special educational needs according to s. 115.91 may apply for funds under s. 115.92. Nonprofit, nonsectarian agencies may apply for funds under s. 115.92. Prior to accepting applications from any such agency, the state superintendent shall determine that it has adequate management and accounting capacity and such agency shall agree that its accounts related to such programs may be audited.

History: 1973 c. 90; 1975 c. 39.

CHAPTER 118

GENERAL SCHOOL OPERATIONS

118.01 Curriculum requirements. (1) FUNDAMENTAL COURSE. Reading, writing, spelling, English grammar and composition, geography, arithmetic, elements of agriculture and conservation of natural resources, history and civil government of the United States and of Wisconsin, citizenship and such other subjects as the school board determines shall be taught in every elementary school. All instruction shall be in the English language, except in those programs established under subch. VI of ch. 115 where instruction shall be in the English language and in the non-English language of the bilingual-bicultural education program, and except that the school board may cause any foreign language to be taught to such pupils as desire it.

(2) PHYSIOLOGY AND HYGIENE. Physiology and hygiene, sanitation, the effects of controlled substances under ch. 161 and alcohol upon the human system, symptoms of disease and the proper care of the body shall be taught in either the 6th, 7th or 8th grade, but no pupil shall be required to take such instruction if his parents file with the teacher a written objection thereto. Instruction in physiology and hygiene shall be offered in every high school.

(3) PHYSICAL EDUCATION. Physical instruction and training shall be provided for all pupils in conformity with the course of instruction in physical education prescribed by the department. In 1- and 2-room schools such instruction and training shall take the form of supervised playground work. In this subsection "physical education" means instruction in the theory and practice of physical exercise and instruction in hygiene, but does not include medical supervision.

(8) COOPERATIVES AND CONSERVATION. Every high school shall provide instruction in cooperative marketing and consumers' cooperatives and conservation of natural resources.

(9) DAIRY PRODUCTS. Every public and private elementary and high school shall give instruction in the true and comparative vitamin content and food and health values of dairy products and their importance for human diet. The course of such instruction and the educational material therefor shall be prescribed by the department and shall be included in the instruction manuals for such schools. Such educational program shall be directed by the department through school district administrators and such other educational officials whose cooperation may be deemed necessary to insure its success. The department of agriculture, the department of health and social services and the college of agriculture and the extension division of the university of Wisconsin shall cooperate with and assist the department in the development and execution of such program.

(10) CITIZENSHIP. Every public and private school, by appropriate instruction and ceremony to be formulated by the department, shall provide instruction in the proper reverence and respect for and the history and meaning of the American flag, the Declaration of Independence, the U.S. constitution, the constitution and laws of this state as well as the duties and responsibilities of citizenship, so that government of the people, by the people and for the people may function and endure in the United States of America.

118.06 Flag and pledge of allegiance. (1) Every school board and the governing body of every private school shall cause the U.S. flag to be displayed in the schoolroom or from a flagstaff on each school ground during the school hours of each school day.

(2) Every public and private school shall offer the pledge of allegiance in grades one to 8 at the beginning of school at least one day per week. No student shall be compelled, against his objections or those of his parents or guardian, to recite the pledge.

118.07 Safety requirements. (1) Every school board and the governing body of every private school shall provide a standard first aid kit for use in cases of emergency.

(2) (a) Once each month, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of departure from the building as if in case of fire, except when the person having direct charge deems that the health of the pupils may be endangered by inclement weather conditions.

(b) Annually the person having direct charge of any public or private school shall file a report pertaining to such drills on forms furnished by the department of industry, labor and human relations. Such reports shall be made to the department of industry, labor and human relations and, in each community having a recognized fire department, to the chief of the fire department. When no fire drill is held during any month, the person having direct charge of

the school shall state the reasons therefor in the report.

History: 1971 c. 164 s. 85; 1975 c. 39.

118.08 School zones; crossings. (1) On any street or highway which borders the grounds of any public or private school in which school is held for a term of not less than 6 months, the authority in charge of the maintenance of the street or highway shall erect black and yellow "school" warning signs. The authority may also designate school crossings across any street or highway, whether or not the street or highway borders on the grounds of a school.

(2) All signs required by this section and their installation shall comply with standards adopted by the state highway commission.

History: 1973 c. 90; 1975 c. 48.

118.09 Safety zones. (1) Every school district maintaining a school outside the corporate limits of a city or village shall provide at the school site a zone which will provide safety for pupils from vehicular traffic during loading and unloading of pupils at the school. The zone may consist of a widening toward or into the schoolyard of the traveled portion of the adjacent highway so as to permit a vehicle to stop in the extended area completely clear of such traveled portion or may be constructed wholly within the schoolyard with connecting roads to the adjacent highway. The zone and approaches from the highway for use of vehicles shall be graveled or hard-surfaced.

(2) The school district shall co-operate with the agency of the town, county or state having jurisdiction of the highway to the end that matters pertaining to the highway will be properly protected. Contracts for the necessary materials and construction and maintenance, including snow removal, of zones may be entered into with the county or town or with private persons. If the contracting party does not have jurisdiction over the highway, the contract shall be approved by the agency of the state, county or town having jurisdiction over the highway before any work is commenced thereunder.

(3) All loading and unloading of pupils at the school, whether transported by a public or private vehicle, shall take place in the safety zone. The operator of a vehicle under contract to transport pupils to the school shall have necessary police powers so that pupils will be properly safeguarded in loading and unloading at the zone and while his vehicle is approaching and leaving the zone. He shall first alight before loading or unloading pupils at the zone, and while at stops on his highway route to load and unload pupils, he shall exhibit the vehicle's stop sign.

(4) Private schools shall comply with this section to the same extent as school districts.

118.12 Prohibitions and penalties.

(2) Any officer or teacher who fails or neglects to make the reports or who fails to keep the records required by this title shall forfeit not less than $5 nor more than $25 for each such failure or neglect.

118.13 Pupil discrimination prohibited. No person may be excluded from or discriminated against in admission to any public school or in obtaining the advantages, privileges and courses of study of such public school on account of sex, race, religion, physical condition, developmental disability as defined in s. 51.434 (1) or national origin. No separate school or department may be maintained for any person on account of sex, race, religion or national origin. Any member of a school board who votes to exclude from any public school any child on account of sex, race, religion, physical condition, developmental disability as defined in s. 51.434 (1) or national origin may be fined not more than $100 or imprisoned not less than 30 days nor more than 6 months or both. The superintendent may promulgate rules necessary to carry out the purposes of this section.

History: 1975 c. 94, 275, 422.

118.14 Age of pupils. No child may be admitted to the 1st grade unless he is 6 years old on or before December 1 in the year he proposes to enter school. A resident over 20 years of age may be admitted to school when in the judgment of the school board he will not interfere with the pupils of school age.

118.145 Admission to high school. (1) The school board of a district operating high school grades shall determine, with the advice and consent of the state superintendent, the minimum standards for admission to high school.

(2) A certificate or diploma or other written evidence issued by a school board showing that the pupil has completed the course of study in the elementary grades of the school district in which the pupil resides shall entitle the pupil to admission to high school. Such certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

(3) If the superintendent of a private school files with the department the course of study for elementary grades prescribed by such school and if such course of study is substantially equivalent to the course of study prepared for elementary grades by the department, a certificate or diploma or other written evidence issued by the

superintendent of the private school showing that the pupil has completed such course of study shall entitle the pupil to admission to a public high school. The certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

History: 1975 c. 39, 199.

118.15 Compulsory school attendance. (1) (a) Unless the child has a legal excuse or has graduated from high school, any person having under control a child who is between the ages of 6 and 16 years shall cause such child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which such child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 16 years of age.

(b) Unless the child has a legal excuse or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years and who resides within a school district which also contains within its boundaries a vocational, technical and adult education school designated by the board of vocational, technical and adult education as a school with a day class program, shall cause such child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which such child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age. A child is eligible to attend a vocational, technical and adult education school under s. 38.22 (1), in lieu of high school, upon attaining the age of 16 years.

(c) If his parent or legal custodian and the school board of his district so determine, any child who is 16 years of age or over shall attend, in lieu of high school or on a part-time basis as determined by the parent or legal custodian, a vocational, technical and adult education school. Where such a determination is made, the district board of the vocational, technical and adult education district in which the child resides must admit the child and must enter into the contract specified in sub. (2). Every district board must offer day class programs satisfactory to meet the requirements of this paragraph and sub. (2) as a condition to the receipt of any state aid.

(d) A school board may permit a pupil who is in good standing academically to attend school part-time during his last school term preceding graduation from high school.

(e) If the child's parent or legal custodian and the school board of the child's district or the board's designee so determine, any child who is 16 years of age or over may be excused from full-time attendance at high school to participate in a school-work training program or work-study program developed for the child in consultation with a school social worker, psychologist or guidance counselor.

(2) (a) If the determination is made under sub. (1) (c) that a child shall attend a vocational, technical and adult education school, the district board governing the vocational, technical and adult education school shall establish appropriate vocational and technical courses in accordance with par. (b) 1 and the school board of the district and the district board governing the vocational, technical and adult education school shall enter into a contract for such attendance.

(b) The contract shall set forth:

1. The courses at the vocational, technical and adult education school which are approved by the state superintendent as being courses for which credit will be given to meet high school graduation requirements.

2. The amount per student class hour of instruction, not including any debt retirement cost, which the school board shall pay to the district board of the vocational, technical and adult education school for pupils attending such school. If either board sends written notice to the state superintendent or the director of the board of vocational, technical and adult education that the boards are unable to reach an agreement on the amount to be paid, the state superintendent and the director shall determine the amount within 15 days of receipt of such notice.

(c) Pupils attending a vocational, technical and adult education school under this subsection may receive general education subjects at the vocational, technical and adult education school and shall be counted as pupils enrolled in the high school for all purposes including computing state aid for the school district and contractual payments therefor by the school district shall be deemed costs of operation and maintenance. No state aid may be paid to the vocational, technical and adult education district for pupils attending the vocational, technical and adult education school under this subsection.

(d) Transportation, or board and lodging under s. 121.57 (1) (a), for pupils attending a vocational, technical and adult education school under this subsection shall be provided by the school district, and state aids shall be paid therefor, on the same basis as is transportation for pupils attending high school.

(3) (a) This section does not apply to:

1. Any child who has completed the full 4-year high school course.

2. Any child who is excused by the school board because he is temporarily not in proper physical or mental condition to attend school or

his educational program under s. 115.85 (2), but who can be expected to return to his program upon termination of his illness or condition. The certificate of a reputable physician, reputable licensed psychologist or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, shall be sufficient proof of the physical or mental condition of the child and of the expectations for the child upon termination of his illness or condition. An excuse under this subdivision shall be in writing and shall state the time period for which it is valid not to exceed 30 days.

3. Any child exempted for good cause by the school board of the district in which the child resides, except that good cause may not be based upon the child's exceptional educational needs as described in s. 115.76 (3).

(b) Upon the ordering by the school board of the exemption of a child under par. (a) 3 the school district clerk shall mail notice of such action to the parent or guardian of the child. A parent or guardian of an exempted child may appeal the exemption to the state superintendent. Within 30 days after the decision of the state superintendent, the parent or guardian may appeal the decision to the circuit court of the county in which the school is located.

(4) Instruction during the required period elsewhere than at school may be substituted for school attendance. Such instruction must be approved by the state superintendent as substantially equivalent to instruction given to children of like ages in the public or private schools where such children reside.

(4m) No school board, school board member, multidisciplinary team under s. 115.80 or person employed by a school board or cooperative educational service agency may in any manner compel a pregnant girl to withdraw from her regular education program.

(5) Whoever violates this section or files a false statement under s. 118.16 (1) may be fined not less than $5 nor more than $50 or imprisoned not more than 3 months or both. In a prosecution under this subsection, if the defendant proves that he is unable to comply with the law because of the disobedience of the child in question, the action shall be dismissed and the child shall be proceeded against as delinquent under ch. 48.

History: 1971 c. 40, 125, 154; 1973 c. 89, 243, 319, 332; 1975 c. 39, 199.

Compelling Amish parents to send their children to high school infringes upon their religious liberties. State v. Yoder, 49 W (2d) 430, 182 NW (2d) 539; aff'd, 406 U.S. 205.

A city is not liable for failure to enforce the school attendance laws for damages resulting from an assault by truants. Riemer v. Crayton, 57 W (2d) 755.

The Amish and compulsory school attendance. 1971 WLR 832.

118.155 Released time for religious instruction. (1) Any school board shall, without approval of the state superintendent, permit pupils with written permission of a parent or guardian to be absent from school at least 60 minutes but not more than 180 minutes per week to obtain religious instruction outside the school during the required school period. The supervisor of such religious instruction shall report monthly, to the principal of the school regularly attended, the names of the pupils who attended such weekly religious instruction. The school board may deny the privilege of released time to pupils who absent themselves from such religious instruction after requesting the privilege. The time period, or periods, allotted for the pupil to be absent from school for the purpose of religious instruction shall be determined by the school board.

(2) Any transportation to religious instruction or from religious instruction to the public school shall be the responsibility of the parents or of the organization sponsoring the religious instruction.

(3) The school district shall be released from all liability for a pupil who is absent from school in accordance with sub. (1).

History: 1973 c. 161.

Constitutionality upheld. State ex rel. Holt v. Thompson, 66 W (2d) 659, 225 NW (2d) 678.

118.16 Truancy. (1) "Truancy" means any absence of one or more days from school during which the principal or teacher has not been notified in writing of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of s. 118.15. The only legal causes for absence are those specified in s. 118.15 (3) and (4). Upon request of the truant officer, a statement from the local health officer or nurse or attending physician shall be submitted explaining the cause of the pupil's absence.

(2) (a) Except in school districts operating under ch. 119, the school district administrator is the truant officer unless the school board appoints as truant officer another professional employe of the school district. The school district administrator or the professional employe shall be reimbursed for his actual and necessary expenses incurred in the performance of his duties as truant officer.

(b) In school districts operating under ch. 119, the school board shall appoint welfare workers or attendance officers who shall have the powers of truant officers. To qualify for employment such welfare workers shall possess the qualifications required for teachers in such school districts and shall have all the rights and privileges of teachers.

(3) All teachers in private schools shall keep a record containing the information required

under ss. 115.30 (2) and 120.18. The record shall be open to the inspection of truant officers at all reasonable times. When called upon by any truant officer, such teachers shall furnish, on blanks supplied by the truant officer, such information in regard to any child between the ages of 6 and 18 who claims or who is claimed to be in attendance at such schools. Every school teacher shall notify promptly the proper truant officer of any pupil whose attendance is habitually and inexcusably irregular.

(4) A truant officer may visit any place of employment in his locality to ascertain whether any minors are employed therein contrary to law. He shall require that the school certificates and lists of minors who are there employed be produced for inspection, and he shall report all cases of illegal employment to the proper school authorities and to the department of industry, labor and human relations. When a truant officer receives a report or learns by investigation or by personal observation that any child is unlawfully and habitually absent from school, he shall proceed immediately in accordance with sub. (5).

(5) School district administrators shall require the teachers under their supervision to report all absences daily to the truant officer. Within 12 hours after receiving a report of absence or other information of absence, the truant officer shall give written notice by personal service to the parent or guardian of the absent child to send the child to some school no later than the next following day on which school is in session unless an excuse from the proper health or judicial authority is filed. The notice shall set forth the legal requirements for school attendance and s. 118.15 shall be printed on the face or back of the notice. The truant officer shall notify immediately the principal or teacher in writing of the service of notice. Return of the child to school shall be reported immediately by the principal or teacher to the truant officer. The failure of the child to return to school on such next following school day shall be reported immediately to the truant officer by the principal or teacher. If it is the first such failure of the child to return to school during that school year, the truant officer again shall give notice to the parent or guardian of the child, and notify the principal or teacher in writing of the service of notice. If the child does not return to school on the school day next following the service of the 2nd notice, the truant officer within 3 days shall cause an action to be brought under s. 118.15 (5). If it is not the first such failure of the child to return to school during that school year, upon reasonable evidence that such absence is truancy, the truant officer shall not give a 2nd notice but shall forthwith cause an action to be brought under s. 118.15 (5).

(6) (a) Any school district administrator, principal, teacher or truant officer who violates this section shall forfeit not less than $5 nor more than $25.

(b) Truant officers may apprehend without warrant any child found violating s. 118.15 and cause the child to be placed in some school.

History: 1971 c. 164 s. 83; 1975 c. 39.

118.18 Teacher reports. Every teacher shall record the names, ages and studies of all pupils under his charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires. Any teacher who fails to comply with this section shall forfeit his wages during the time of such failure.

118.255 Health treatment services for children with special physical or mental health treatment needs. (1) (a) Under this section "physical or mental health treatment services" means treatment for physical, crippling or orthopedic disability, developmental disability, emotional disturbance, hearing impairment, visual disability, speech or language disability; and includes itinerant services such as evaluative and diagnostic services.

(am) "Private school" has the meaning set forth in s. 121.51 (3).

(b) Words and phrases used in this section which are identical to words and phrases defined in s. 115.76 shall be given the meaning contained in s. 115.76.

(2) (a) If a school board, cooperative educational service agency or county handicapped children's education board provides physical or mental health treatment services to its pupils, it may also provide such services within the private school facilities to those private school pupils who are referred to the public school board, cooperative educational service agency or county handicapped children's education board by the administrator of a private school for evaluation for possible servicing. There shall be no charge for health treatment services provided to any pupils unless public school students or their parents are charged for similar services. For purposes of state aid, as it is provided under s. 115.88 to the public school district, for the health treatment service program, private school pupils receiving such health treatment services shall be counted among the pupils of the public school district receiving such services, although each child may receive health treatment services within his own school facilities, whether public or private.

(b) A school board, cooperative educational service agency, or county handicapped children's

education board providing services under this section may enter into agreements with the administrator of a private school on the scheduling, space and other necessary arrangements for performance of such health treatment services. A school board, cooperative educational service agency or county handicapped children's education board shall not pay any private school for any services or facilities provided under this section. Control of the health treatment services program shall rest with the public school board, cooperative educational service agency or county handicapped children's education board.

(c) A school board cooperative educational service agency or county handicapped children's education board may provide health treatment services only within private school facilities located within the boundaries of the school district, cooperative educational service agency or county.

(3) The school board, cooperative educational service agency or county handicapped children's education board maintaining health treatment services shall report annually to the department of public instruction, and at such other times as the department directs, such information as the department requires.

(4) If the state superintendent is satisfied that the health treatment services program has been maintained during the preceding school year in accordance with law he shall certify to the department of administration in favor of each school board, cooperative educational service agency and county handicapped children's education board maintaining such health treatment services, an amount equal to 70% of the amount expended for items listed in s. 115.88 (1) by the school board, cooperative educational service agency and county handicapped children's education board during the preceding year for these health treatment services. The department of administration, upon such certification shall distribute the amounts to the appropriate school board, cooperative educational service agency and county handicapped children's education board.

History: 1973 c. 307.

CHAPTER 120

SCHOOL DISTRICT GOVERNMENT

SUBCHAPTER I

COMMON AND UNION HIGH SCHOOL DISTRICTS

120.18 Annual school district report. Annually at such times as the department prescribes but on or before August 15, the school district clerk of a common or union high school district shall file a verified annual school district report with the department, on forms supplied by the department. At the beginning of the school term, the school district clerk shall send a copy of the annual school district report to the school district administrator and shall notify the person in charge of each school in the school district that the reports are on file in the school district clerk's office. Accounting and financial information provided by the school district in the annual report shall be prepared from the system of accounts prescribed by the department. If the school district clerk neglects to make the annual report, the clerk shall be liable to the school district for the whole amount of money lost by the school district because of such neglect. The annual report shall contain:

(1) Except in a union high school district, the school census, showing the numbers and ages of children between the ages of 4 and 20 residing in the school district. Children cared for at a charitable or penal institution of this state may not be included in the report. The school district clerk may employ a competent person to take the school census.

(2) The number of children between the ages of 4 and 20 taught in the schools of the school district during the school year.

(3) The number of children attending the schools of the school district during the school year under the age of 4 and over the age of 20 years.

(4) The number of school days taught, including holidays, by teachers legally qualified to teach.

(5) The names of all teachers employed by the school district during the school year; the number of days taught by each, including holidays; the monthly salary paid to each; and the time allowed each teacher for attendance at an educational convention for which no wages were deducted.

(6) The amount of money received during the school year, designating separately the amount received from the school fund income, from taxes levied by the county board, from taxes voted by the school district and from all other sources and the manner in which such money was expended, showing separately the expenditure of school money received from the state.

(7) The amount and character of school district debts.

(8) Such other facts and statistics in relation to the schools, public or private, in the school district as the department requires.

History: 1975 c. 189, 224.

SUBCHAPTER II

TRANSPORTATION

121.51 Definitions. In this subchapter:

(1) "School bus" has the meaning designated in s. 340.01 (56).

(2) "School board" has the meaning designated in s. 115.01 (4) and includes any governmental agency transporting children to and from public schools.

(3) "Private school" means any parochial or private elementary or high school in this state offering any academic grades comparable to those described in s. 115.01 (2), including kindergarten.

(4) "Attendance area" is the geographic area designated by the governing body of a private school as the area from which its pupils attend and approved by the school board of the district in which the private school is located. If the private school and the school board cannot agree on the attendance area, the state superintendent shall, upon the request of the private school and the board, make a final determination of the attendance area. The attendance areas of private schools affiliated with the same religious denomination shall not overlap.

History: 1975 c. 120.

"The attendance areas of private schools affiliated with the same religious denomination shall not overlap," is not construed as mere surplusage, for although it adds no special restrictive ban on overlapping in that such restriction is inherent in the whole concept of "attendance areas," it makes the phrase "affiliated with the same religious denomination" the test of affiliation in a single school system rather than operation by a single agency or set of trustees or religious order within a particular religious denomination. State ex rel. Vanko v. Kahl, 52 W (2d) 206, 188 NW (2d) 460.

121.52 Vehicle, operator and driver requirements. (1)(a) Rules governing the design, construction, inspection and operation of school busses adopted by the administrator of the division of motor vehicles under s. 110.06 (2) shall by reference be made part of any contract for the transportation of pupils.

(b) The school board may adopt additional rules, not inconsistent with law or with rules of the administrator of the division of motor vehicles or the state superintendent, for the protection of the pupils or to govern the conduct of the person in charge of the motor vehicle used for transportation of pupils for compensation.

(2) (a) All drivers of motor vehicles owned by the school district and used for the transportation of pupils shall be under written contract with the school board of the district.

(b) The owner or lessee of all privately owned motor vehicles transporting pupils for compensation shall be under written contract with the school board of the district for which such transportation is provided.

(c) The form of contract shall be prescribed by the department and shall provide that all parties to the contract are subject at all times to rules adopted by the administrator of the division of motor vehicles under s. 110.06 (2) and by the department.

(3) (a) If the contract is made under sub. (2)(b), the contract shall provide that the owner or lessee require his bus drivers, as a condition of employment, to take a physical examination, including a chest X-ray or tuberculin test, and to submit the physical examination report to the school board. If the reaction to the tuberculin test is positive, a chest X-ray shall be required. Freedom from tuberculosis in a communicable form is a condition of employment as a bus driver. Additional physical examinations shall be required thereafter at intervals determined by the school board but at not less than 3-year intervals for each bus driver.

(b) The contract shall provide that a physical examination report may be submitted on forms prescribed by the federal authority regulating motor carriers or the department and that a copy of a physical examination report obtained for other purposes within one year of the date of the contract may be substituted for the examination, if the report contains substantially the same information required by the department.

(c) Such physical examinations, chest X-rays or tuberculin tests shall not be required of a bus driver who files with the school board an affidavit setting forth that he depends exclusively upon prayer or spiritual means for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he is to the best of his knowledge and belief in good health and that he claims exemption from health examination on these grounds. Notwithstanding the filing of such affidavit, if there is reasonable cause to believe that the bus driver is suffering from an illness detrimental to the health of the pupils, the school board may require a health examination of the bus driver

sufficient to indicate whether or not he is suffering from such an illness. No bus driver may be discriminated against by reason of his filing such affidavit.

(4) The use of any motor vehicle to transport pupils shall be discontinued upon receipt of an order signed by the state superintendent or the administrator of the division of motor vehicles ordering such discontinuance. Personnel under the state superintendent or the administrator of the division of motor vehicles may ride any school bus at any time for the purpose of inspection.

121.53 School bus insurance. (1) No motor vehicle may be used as a school bus unless a policy of bodily injury and property damage liability insurance, issued by an insurer authorized to transact business in this state, is maintained thereon. The policy shall provide property damage liability coverage with a limit of not less than $5,000. The policy also shall provide bodily injury liability coverage with limits of not less than $15,000 for each person and, subject to such limit for each person, total limits as follows:

(a) $30,000 for each accident for each such motor vehicle having a seating capacity of 7 passengers or less.

(b) $40,000 for each accident for each such motor vehicle having a seating capacity of 8 to 15 passengers.

(c) $50,000 for each accident for each such motor vehicle having a seating capacity of 16 to 24 passengers.

(d) $75,000 for each accident for each such motor vehicle having a seating capacity of 25 to 36 passengers.

(e) $100,000 for each accident for each such motor vehicle having a seating capacity of 37 to 49 passengers.

(f) Not less than $2,000 for each accident for each passenger seat accommodation for each such motor vehicle having a seating capacity of 50 or more passengers.

(2) The policy under this section shall cover the transportation of pupils, their parents or guardians, authorized chaperones, school district officers, faculty and employes and school doctors, dentists and nurses:

(a) To and from the school or school district which operates the school bus or contracts for its operation.

(b) In connection with any extracurricular school activity authorized by and made in compliance with s. 121.54 (7).

(3) An insurer issuing a policy under this section may exclude coverage for public or livery use of the school bus, but any such exclusion does not apply:

(a) When the school bus, while regularly used as such, also is used to transport pupils of another public or private school, whether or not a charge is made for such transportation.

(b) When used in accordance with sub. (2), whether or not any person lawfully transported is required to pay a charge therefor.

(4) Every school board shall require that there be filed with it and with the division of motor vehicles a certificate of insurance showing that an insurance policy has been procured and is in effect which covers the owner and operator of the school bus and the school board or shall procure an insurance policy and file such certificate with the division of motor vehicles. Unless such certificate is on file with the division of motor vehicles, no registration plates for a school bus may be issued by the division of motor vehicles. No such policy may be terminated prior to its expiration or canceled for any reason, unless a notice thereof is filed with the division of motor vehicles and with the school board by the insurer at least 10 days prior to the date of termination or cancellation. The division of motor vehicles shall revoke the registration of a school bus on which the policy has been terminated or canceled, effective on the date of termination or cancellation.

(5) Subsections (1) to (4) do not apply to:

(a) A motor vehicle owned or operated by a parent or guardian transporting only his own children, whether or not any contract is made with or compensation paid to the parent or guardian for such transportation by a school board.

(b) A motor vehicle operated by a common carrier certificated under ch. 194, where such motor vehicle is used under contract pursuant to this subchapter, if the common carrier has complied with s. 194.41 or 194.42.

(6) Within 10 days after its occurrence, every accident involving a motor vehicle while providing transportation under this subchapter shall be reported to the appropriate school board and promptly by it to the state superintendent on forms provided by him.

History: 1975 c. 60.

121.54 Transportation by school districts. (1) CITY OPTION. Subsections (2) and (6) and s. 121.57 do not apply to pupils who reside in cities unless the school they attend is located outside the city but within the boundaries of the school district. Where an annual or special meeting of a common school district or a union high school district, or the school board of a city school district or unified school district determines to provide transportation for such pupils, state aid shall be paid in accordance with s.

121.58 and there shall be reasonable uniformity in the transportation furnished such pupils whether they attend public or private schools.

(2) GENERAL TRANSPORTATION. (a) Except as provided in sub. (1), every school board shall provide transportation to and from public school for all pupils who reside in the school district 2 miles or more from the nearest public school they are entitled to attend.

(b) 1. Except as provided in sub. (1) or otherwise provided in this subsection, the school board of each district operating high school grades shall provide transportation to and from the school he attends for each pupil residing in the school district who attends any elementary grade, including kindergarten, or high school grade at a private school located 2 miles or more from his residence, if such private school is a school within whose attendance area the pupil resides and is situated within the school district or not more than 5 miles beyond the boundaries of the school district measured along the usually traveled route.

2. In lieu of transporting students under subd. 1 and paying for transportation under sub. (8) (b), an underlying elementary school district of a union high school district may elect, by resolution adopted at its annual or special meeting, to transport elementary school children who reside within the underlying district and qualify for transportation under subd. 1, in vehicles owned, operated or contracted for by the district. Once adopted, such a resolution may be repealed only upon one year's notice to the board of the union high school district of which the underlying district is a part. An elementary school district shall notify the union high school district of any action under this paragraph no later than June 15 preceding the school year in which the elementary school district's action takes effect.

3. No later than May 15 in each year, each private school shall notify each school board of the names, grade levels and locations of all pupils, if any, eligible to have transportation provided by such school board under this paragraph and planning to attend such private school during the forthcoming school term. The school board may extend the notification deadline.

(c) An annual or special meeting of a common school district or union high school district, or the school board of a city school district or unified school district may determine to provide transportation for all or part of the pupils who reside in the school district to and from the nearest public school they are entitled to attend or the private school within or without the school district within whose attendance area they reside, but if transportation is provided for less than all such pupils there shall be reasonable uniformity in the minimum distance that pupils attending public and private schools will be transported. Except for elementary school districts electing to furnish transportation under par. (b) 2, this paragraph does not permit the annual or special meeting or school board in a district operating only elementary grades to provide for the transportation of pupils attending private schools.

(d) A school board may provide transportation for teachers to and from public school, subject to the same controls and limitations as apply to the transportation of pupils.

(3) TRANSPORTATION FOR CHILDREN WITH EXCEPTIONAL EDUCATIONAL NEEDS. Every school board shall provide transportation for children with exceptional educational needs, as defined in s. 115.76 (3), to any public or private elementary or high school, to the Wisconsin school for the visually handicapped or the Wisconsin school for the deaf or to any special educational program for children with exceptional educational needs sponsored by a state tax-supported institution of higher education, regardless of distance, if the request for such transportation is approved by the state superintendent. Approval shall be based on whether or not the child can walk to school with safety and comfort. Section 121.53 shall apply to transportation provided under this subsection.

(4) SUMMER CLASS TRANSPORTATION. (a) A school board may provide transportation for pupils residing in the school district and attending summer classes. If the school board provides transportation for less than all pupils, there shall be reasonable uniformity in the minimum and maximum distances pupils are transported.

(b) A school board, a county handicapped children's education board or a cooperative educational service agency may provide transportation regardless of distance for children with exceptional educational needs who attend a summer special education program under s. 115.83 (4), if a request for such transportation is approved by the state superintendent. Approval shall be based on whether or not the child can walk to school with safety and comfort. Section 121.53 shall apply to transportation provided under this paragraph.

(5) TRANSPORTATION TO VOCATIONAL SCHOOLS. The school board of a district operating high school grades may provide for the transportation or board and lodging of residents of the school district attending vocational, technical and adult education schools outside the school district who are not high school graduates, are less than 20 years of age and attend such schools full time. The school district shall be paid

state aid for such transportation or board and lodging in accordance with s. 121.58. This subsection shall not apply to cases where the distance between a pupil's home and the vocational, technical and adult education school along the usually traveled public highway is more than 15 miles, except where the pupil resides on an approved bus route or where board and lodging are provided.

(6) TRANSPORTATION IN SPECIAL CASES. The school board of a district operating high school grades which, under s. 121.84 (2), must permit a pupil to attend high school outside the school district shall provide transportation for such pupil if he resides 2 or more miles from the high school he attends.

(7) TRANSPORTATION FOR EXTRACURRICULAR ACTIVITIES. (a) A school board may provide transportation for pupils attending public schools only, their parents or guardians, authorized chaperones, school district officers, faculty and employes and school doctors, dentists and nurses in connection with any extracurricular school activity, such as a school athletic contest, school game, school outing or school field trip or any other similar trip when:

1. A school bus which is regularly used by or for the school district is used and such transportation is under the immediate supervision of a competent adult employe of the school district and the school bus is operated by a driver regularly used as a bus driver by the school district;

2. A school operated by the school district has an actual educational interest in such activity;

4. The school principal or other person with comparable authority authorizes such use.

(b) The school board may make a charge for such transportation, to be paid by the persons transported, sufficient to reimburse it for the use of the school bus. If the school bus is operated by a person under contract with the school board under s. 121.52 (2) (b), the school board may authorize a charge for the transportation, to be paid by the persons transported, sufficient to make reimbursement for such use.

(8) PAYMENT OF TRANSPORTATION COSTS. (a) The cost of providing transportation for pupils under subs. (1) to (6) and s. 121.57 shall be paid by the school district in which they reside, and no part of such cost may be charged to the pupils or their parents or guardians.

(b) At the end of the school term, every union high school district shall submit to each of its underlying school districts operating only elementary grades a certified statement of the actual cost for the school year, less the amount to be paid for such pupils for that school year under s. 121.58 (2), of transporting the private school pupils residing in the underlying school district under sub. (2) (b). On or before June 30 in each year each underlying school district shall reimburse the union high school district for the net cost of transporting its resident private school pupils as so reported in the statement.

(9) TRANSPORTATION IN AREAS OF UNUSUAL HAZARDS. (a) In school districts in which unusual hazards exist in walking to and from school for pupils who reside less than 2 miles from the school where they are enrolled, the school board shall develop a plan which shall show by map and explanation the nature of the unusual hazards to pupil travel and propose a plan, which may include transportation which will provide proper safeguards for the school attendance of such pupils. Copies of the plan shall be filed with the sheriff of the county in which the principal office of the school district is located. The sheriff shall review the plan and may make suggestions for revision deemed appropriate. The sheriff shall investigate the site and plan and make a determination as to whether unusual hazards exist which cannot be corrected by local government and shall report the findings in writing to the state superintendent and the school board concerned. Within 60, but not less than 30, days from the day on which the state superintendent receives the sheriff's report, the state superintendent shall determine whether unusual hazards to pupil travel exist and whether the plan provides proper safeguards for such pupils. If the state superintendent makes findings which support the plan and the determination that unusual hazards exist which seriously jeopardize the safety of the pupils in their travel to and from school, the school board may put the plan into effect and state aid shall be paid under s. 121.58 (2) (c) for any transportation of pupils under this subsection. Any city, village or town may reimburse, in whole or in part, a school district for costs incurred in providing transportation under this subsection for pupils who reside in the city, village or town. A school district may make a charge for transportation provided under this subsection to be paid by the parent or guardian of the child transported. Such charges shall not exceed a sum sufficient to reimburse the school district for costs incurred in such transportation. If the school board and the parent or guardian cannot agree on the amount of the charges, the department shall determine whether the amount of the charges exceed the costs.

(b) Within 30 days after the sheriff's report is received by the state superintendent, any aggrieved person may request a hearing before the state superintendent on the determination by the sheriff and on the plan. After such hearing, the state superintendent shall proceed as provided in par. (a).

(c) The state superintendent and the department of transportation shall establish a definition of "unusual hazards" and "area of unusual

hazards" for the implementation of this subsection. Such definition shall be promulgated, as a rule, by the state superintendent.

History: 1971 c. 162; 1973 c. 89, 107, 333; 1975 c. 60, 392, 421.

121.51 (4) and 121.54 (2) (b) 1 as enacted in 1969 are constitutional. State ex rel. Vanko v. Kahl, 52 W (2d) 206, 188 NW (2d) 460.

Exceptions to the mandatory provision of transportation should be narrowly construed. The exception for children who "reside in cities" should be confined to its common and approved usage. Morrissette v. DeZonia, 63 W (2d) 429, 217 NW (2d) 377.

Transportation must be on a reasonably uniform basis to all children attending either public or private schools. 61 Atty. Gen. 240.

Students living less than 2 miles from school may not be transported by the school board at parental expense. 62 Atty. Gen. 95.

City school bussing policies adopted pursuant to (1) and (2) (b) 1 were without rational basis and violated the equal protection rights of city resident private school students who resided more than 2 miles from school but were denied transportation solely because the school was located 400 feet outside the city and school district boundaries. Deutsch v. Teel, 400 F Supp. 598.

121.55 Methods of providing transportation. (1) School boards may provide transportation by any of the following methods:

(a) By contract with a common carrier, a taxi company or other parties.

(b) By contract with the parent or guardian of the pupil to be transported. If the school board and the parent or guardian cannot agree upon the amount of compensation, the department shall determine the amount of compensation to be designated in the contract.

(c) By contract with another school board, board of control of a co-operative educational service agency or the proper officials of any private school or private school association.

(d) By contract between 2 or more school boards and an individual or a common carrier.

(e) By the purchase and operation of a motor vehicle.

(2) The term of any contract made under this section shall not exceed 3 years.

(3) A school board may fulfill its obligation to transport a pupil under s. 121.54 (2) (b) 1 by offering to contract with the parent or guardian of the pupil for an annual payment for each pupil of not less than $5 times the distance in miles between the pupil's residence and the private school he attends. Such contract shall provide for a payment of not less than $80 per pupil per year, but the payment shall not exceed the actual cost nor may the aids paid under s. 121.58 (2) (a) for the pupil exceed the cost thereof.

121.56 School bus routes. The school board of each district shall make and be responsible for all necessary provisions for the transportation of pupils, including establishment, administration and scheduling of school bus routes. Upon the request of any school board, the state superintendent shall provide advice and counsel on problems of school transportation. Any private school shall, upon the request of the public school officials, supply all necessary information and reports. The transportation of public and private school pupils shall be effectively co-ordinated to insure the safety and welfare of the pupils. Upon receipt of a signed order from the state superintendent, the school board shall discontinue any route specified by him.

121.57 Board and lodging or house rental in lieu of transportation. (1) (a) If a school board determines it is to the advantage of the school district and if the parent or guardian determines it is to the advantage of the pupil that board and lodging in lieu of transportation be provided for all or part of the time for a pupil of the school district required to be transported or for whom it has been authorized under s. 121.54 (2), the school board shall enter into a written contract under which the pupil shall be properly boarded and lodged and the school board shall pay for such board and lodging. The parent or guardian may select the home in which his child is boarded and lodged. If a school board determines it is in the interest of the school district, it may pay the tuition of a pupil in a school in another school district in lieu of providing transportation to a school in the school district of residence or board and lodging. If the distance from the pupil's home to the school in another school district is 2 miles or more, the school board of the district of residence shall provide transportation.

(b) This subsection also applies to handicapped children. The state superintendent may grant permission for a handicapped child to be transported to a school in another school district if an acceptable form of transportation is provided and if such school offers equal or better educational opportunities for the child.

(2) If a school board determines it is in the interest of the school district to rent a house for the family of children required to be transported in lieu of providing such transportation, it may enter into a written lease for such housing and pay as rental therefor not more than the amount which otherwise would be paid for transportation.

(3) This section does not apply to pupils who attend private schools.

TITLE XV.

Public Health.

CHAPTER 143

COMMUNICABLE DISEASES

143.02 Powers of department.

(3) The department may close schools and forbid public gatherings in schools, churches, and other places when deemed necessary to control epidemics.

143.11 Violation of law relating to health. Any person who wilfully violates any law relating to the public health, for which violation no other penalty is prescribed, or any order or regulation of the department or of any board of health or town sanitary district commission, lawfully made and duly published, shall be imprisoned not more than 3 months or fined not to exceed $100.

143.12 Communicable diseases; schools and libraries; duties of teachers, parents, officers. (1) Upon the appearance of any dangerous communicable disease, the local health officer shall give written notice to the principal or teacher of each school, and the librarian of each library in his district, of the names of all families where the disease exists. If the rules of the department provide for the exclusion from school of persons who live in homes where such disease exists, the health officer shall request the principal of the school to exclude from school all such persons until a written order signed by the health officer permitting attendance is presented.

(2) When the principal or teacher of a school has been notified of the prevalence of a dangerous communicable disease in the school district, or when the principal or teacher of the school knows or suspects that a dangerous communicable disease is present in the school, he shall at once notify the local health officer who must then investigate the matter.

(3) Parents shall not permit children afflicted with a dangerous communicable disease to attend school.

(4) All schoolhouses, before the beginning of each school term, shall be thoroughly cleaned and, after the outbreak therein of any contagious disease, shall be thoroughly disinfected, as provided by the department. All buildings requiring disinfection shall be disinfected by or under the direction of the local health officer, and the expenses of disinfection shall be paid by the town, village or city, upon the order of the local board of health.

(5) Neglect or refusal on the part of any principal or teacher to comply with the requirements of this section shall be sufficient cause for his dismissal.

(6) All teachers shall send home pupils who are habitually dirty, noisome or lousy, and shall immediately give written notice to the school board or the superintendent of schools and to the parents of such pupils of such action and the reasons therefor.

(7) Library books shall not be taken into or returned from a home where such disease exists or has recently occurred unless thoroughly disinfected by or under the direction of the local health officer, and may be burned by such officer.

143.13 Protection against smallpox. (1) Each local board of health shall forthwith, upon the appearance of smallpox, prohibit the inhabitants of the municipality from attending school for a period of fourteen days, except persons who have been successfully vaccinated, or who show a doctor's certificate of recent vaccination. This subsection shall apply to nonresidents coming into the municipality to attend school.

(2) Should new cases of smallpox continue to develop in the municipality, the local board of health shall renew such order for so many days as the department may deem necessary.

(3) When exclusion from school is so ordered the local board of health shall provide for the free vaccination of all resident children of school age during the outbreak of smallpox, the necessary expense thereof to be paid by the municipality, upon the order of the local board of health. Such gratuitous vaccination may be extended to nonresident school children of the municipality at the discretion of the local board of health. Upon the order of their respective boards of health the municipalities comprising a joint school district shall offer free vaccination to their own resident pupils excluded from a joint school because of the appearance of smallpox in the municipality in which the school is located. The department shall, when deemed necessary by the local board of health, determine the method to be employed in such vaccination, shall designate the persons to do the work and may determine the maximum fee to be charged.

143.16 Physical exams for teachers. The governing body of each private or parochial school enrolling pupils in any grades from one to 12 and of every privately supported institution of higher education in the state granting a certificate, diploma or degree shall, as a condition of entering or continuing such employment, require a physical examination, including a chest X-ray or tuberculin test, of every employe of such institution except in institutions of higher learning employes working less than 60 days in any school year shall be exempt; except that a governing body may, in the case of a new employe, permit the employe to submit proof of an examination, chest X-ray or tuberculin test, which complies with this section taken within the past 2 years in lieu of requiring such examination, X-ray or test. If the reaction to the tuberculin test is positive then a chest X-ray shall be required. Additional physical examinations shall be required thereafter at intervals determined by said governing body. A chest X-ray or tuberculin test shall be required at least once every 3 years and if the reaction to such tuberculin test is positive then a chest X-ray shall be required. The physician making such examination shall prepare a report of same upon a standard form prescribed by the department. Such report shall be retained in the physician's files and he shall make confidential recommendations therefrom to the governing body and to the employe on a form prescribed by the department. The recommendation form shall contain space for a certificate that the person examined is free from tuberculosis in a communicable form. Not more than 30 days after the opening of each semester or similar period, each institution shall file with the department a certificate of compliance on a form satisfactory to the department stating that they have complied with this section.

CHAPTER 146

MISCELLANEOUS HEALTH PROVISIONS

146.015 Safety eye protective goggles. (1) Every student and teacher in schools, colleges, universities and other educational institutions participating in or observing any of the following courses is required to wear appropriate industrial quality eye protective goggles at all times while participating in or observing such courses or laboratories:

(a) Vocational, technical or industrial arts shops, chemical or chemical-physical laboratories involving exposure to:

1. Hot molten metals or other molten materials.

2. Milling, sawing, turning, shaping, cutting, grinding or stamping of any solid materials.

3. Heat treatment, tempering or kiln firing of any metal or other materials.

4. Gas or electric arc welding or other forms of welding processes.

5. Repair or servicing of any vehicle.

6. Caustic or explosive materials.

(b) Chemical, physical or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations or other hazards not enumerated.

(2) Eye protective goggles may be furnished for all students and teachers by the institution, purchased and sold at cost to students and teachers or made available for a moderate rental fee and shall be furnished for all visitors.

(3) In this section, "industrial quality eye protective goggles" means devices meeting the standards of the American National Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1 - 1968, and subsequent revisions thereof, approved by the American National Standards Institute, Inc.

(4) The state superintendent of public instruction shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this section.

History: 1973 c. 66.

CHAPTER 158

BARBERS

158.03 School teaching barbering. (1) No person shall operate a school for the purpose of teaching barbering for compensation unless an annual certificate of registration has been obtained from the examining board. Application for such certificate shall be filed with the examining board in such form as the examining board shall prescribe. The original fee for certificate of registration shall be $900 and shall be paid before the school is opened. The renewal fee shall be $300 and shall be paid before September 1 annually; when renewed after said date, an additional penalty fee of $300 shall be paid. Barber schools shall make no charge to patrons for barbering services. Vocational, technical and adult education schools in this state are exempt from paying registration fees.

(2) No school or college teaching barbering shall enroll or admit any apprentice unless such apprentice shall make and file a duly verified application in a form to be prescribed and furnished by the examining board.

(3) No school or college teaching barbering shall be approved by the examining board unless the school or college requires as a prerequisite to graduation a course of instruction of not less than 1,248 hours to be completed within a period of not less than 9 months' instruction. There shall be at least one instructor for every 19 apprentices. The course of instruction shall include study of: Scientific fundamentals of barbering; hygiene and bacteriology, histology of the hair, skin, muscles and nerves; structure of the head, face and neck; elementary chemistry pertaining to disinfection and antiseptics; diseases of the skin, hair, and glands; massaging and manipulating of the muscles; hair cutting, shaving and care of instruments and equipment as may be related to the practice of barbering or approved by the examining board.

(4) No person may engage in teaching or instructing apprentices in any school or college teaching barbering unless he or she holds a Wisconsin master barber's license, is a graduate from an approved high school or its equivalent as determined by examination by the board of vocational, technical and adult education or the university of Wisconsin extension and has passed an examination for an instructor's certificate in barbering conducted by the examining board. Such certificate shall expire on June 1 next succeeding issuance and be renewed on or before the expiration date at a renewal fee specified by the examining board, not to exceed $25. After that date an additional fee of $10 shall be paid. The examination shall cover such subjects as are usually taught in barber schools and colleges in practical work and theory. The examination fee for instructors shall be specified by the examining board, but shall not exceed $50.

History: 1971 c. 154 s. 79 (3); 1975 c. 39 ss. 661, 662, 732 (2); 1975 c. 199, 224, 422.

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159.02 Schools teaching cosmetology; curriculum; requirements; regulation. (1) No person may operate a school for the purpose of teaching cosmetology for compensation unless a proper certificate of registration has been obtained from the examining board.

(2) Application for such certificate shall be filed with the examining board in such form as the examining board prescribes. No school for teaching cosmetology shall be granted a certificate of registration unless it employs and maintains a sufficient number of instructors regularly as such who shall hold an instructor's license.

(3) No school teaching cosmetology shall be granted a certificate of registration unless it requires as a prerequisite to graduation a course of instruction of not less than 1,500 training hours to be completed within a period of at least 9 months or an equivalent period if credit is given for prior related training. Such instruction shall not exceed 8 hours in any one day. The course of instruction shall include subjects prescribed by the examining board.

(4) No school holding a certificate of registration from the examining board shall enroll or admit any student unless such student shall make and file with the examining board a duly verified application in a form to be prepared and furnished by the examining board.

(5) A school shall provide its students with subjects for practical work. No school shall advertise for patrons to be used in clinical work.

(6) Any school teaching cosmetology shall display or cause to be displayed in its entrance, waiting room and in the rooms where patron public service is given, a sign furnished by the examining board, indicating that all work therein is done exclusively by students.

(7) The biennial renewal fee for a certificate of registration for a school to teach cosmetology shall be not less than $400 for all schools holding a certificate of registration. Applicants for a new certificate of registration shall accompany their application with a fee of $1,200. The application fee shall include the fee for the first certificate of registration if the application is granted. The biennial fee for a certificate of registration shall be paid on or before November 30, biennially; after that date an additional fee of $50 shall be paid.

(8) Any person may receive a student permit:

(b) Who is of good moral character and temperate habits;

(c) Who is in good physical and mental condition;

(d) Who, as shown by certificate or affidavit, has completed the 12th grade or its equivalent as determined by the extension division of the university of Wisconsin, or has reached the age of 18, or who is engaged in a vocational education program which uses the cooperative educational method or similar program approved by the department of public instruction; and

(e) Who attends a school teaching cosmetology which has a certificate of registration from the examining board.

History: 1973 c. 295; 1975 c. 39 s. 732 (2).

CHAPTER 176

INTOXICATING LIQUORS

176.05 Liquor licenses.

(9m) RESTRICTIONS NEAR SCHOOLS, CHURCHES AND HOSPITALS. (a) No retail "Class A" or "Class B" license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises.

(b) This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.

TITLE XVII.

Partnerships And Corporations.

CHAPTER 185

COOPERATIVES

185.991 Voluntary benefit plans in schools. (1) Any plan directed by schools or school authorities in this state, as members of a voluntary association or otherwise, whereby benefits are provided for injury or accidental death of pupils attending such schools arising out of or in conjunction with athletic activities or in any other manner, may be organized and operated only in accordance with ss. 185.991 to 185.996. Such plans must be nonprofit and without capital stock.

(2) Any plan may contract to provide its scheduled benefits to students.

(3) Boards of school districts and municipalities however classified are authorized to pay the whole or a part of the dues and fees required to provide the benefits of any such plan to students within their jurisdiction notwithstanding any other statute to the contrary.

(4) The governing body shall consist of not less than 3 nor more than 7 individuals who shall be the same individuals who comprise the governing body of the organization sponsoring the plan.

(5) The fiscal year for such plans shall be from July 1 to June 30.

185.992 Requirements of plans. Every such interscholastic benefit plan shall be exempted from the state insurance laws, with the exception of ss. 201.045 and 601.31 but the sponsoring association shall:

(1) File with the commissioner of insurance its rules and regulations and a schedule of the benefits contemplated, together with the form of agreement entered into with students, parents, guardians or others all of which shall be subject to approval by the commissioner.

(2) File with the commissioner for his approval rates applicable to the benefit schedule.

(3) File with the commissioner its constitution and bylaws.

(4) Invest its funds only in property and securities approved for domestic life insurance companies.

(5) File with the commissioner on such forms as may be prescribed by him an annual report of its financial condition as of June 30 each year on or before the last day of August following.

(6) Maintain sufficient reserves to discharge its obligations and for any prepayment of dues or fees collected.

(7) Have the participation in each fiscal year of at least 25,000 students taking part in athletic programs or at least 50,000 students if others than those engaged in athletics are included. Any such interscholastic benefit plan may administer benefit plans for other groups which do not have the required minimum number, provided the funds of such other groups are segregated.

(8) The governing body shall elect its officers and determine the method of handling claims.

185.993 Power to borrow money. Such benefit plans may borrow money to pay losses and expenses incurred during any fiscal year but every such loan must be repaid prior to the end of the calendar year in which it is made.

185.995 Exempt from taxation. Every such plan is hereby declared to be a charitable and benevolent organization and its property, real, personal and mixed, its income, and property transferred to it, shall be exempt from taxation as provided in ss. 70.11, 71.01 (3), 72.15 and subch. IV of ch. 72, and its employes shall be excluded from the provisions of ch. 108 as provided in s. 108.02.

History: 1971 c. 307 s. 118.

185.996 Inconsistent provisions of statutes. Such plans organized or permitted to operate under this chapter shall be operated exclusively under ss. 185.991 to 185.996. Other provisions of the statutes inconsistent with any such provision shall not be applicable to athletic benefit plans operating pursuant to those sections.

194.41 Undertaking for damage to person or property. (1) No permit or vehicle registration shall be issued to a common motor carrier of property, contract motor carrier or rental company and no permit or vehicle registration shall remain in force to operate any motor vehicle for which a permit is required by this chapter unless the carrier or rental company has on file with the division of motor vehicles and in effect an approved certificate for a policy of insurance or other contract in writing in such form and containing such terms and conditions as may be approved by the division issued by a surety, indemnity or insurance company or exchange lawfully qualified to transact such business in this state under which such indemnitor shall assume the liability prescribed by this section with respect to the operation of such motor vehicles. Said certificate or undertaking shall be subject to the approval of the division and shall provide that the indemnitor shall be directly liable for and shall pay all damages for injuries to or for the death of persons or for injuries to or destruction of property that may be recovered against the owner or operator of any such motor vehicles by reason of the negligent operation thereof in such amount as the division may require. Such liability may be restricted so as to be inapplicable to damage claims on account of injury to or destruction of property transported, but the division may require an undertaking protecting the owner of the property transported by carriers from loss or damage thereto, which undertaking shall be in such amount and under such conditions as the division may require. No permit or vehicle registration shall be issued to a common motor carrier of passengers by any motor vehicle, or other carrier of passengers by motor bus, except those registered in accordance with ss. 341.26 (2) (d) and (e) and 341.267, and no permit or vehicle registration shall remain in force to operate any motor vehicle unless it has on file with the division a like undertaking in such form and containing such terms and conditions as may be approved by the division for the payment of damages for injuries to property and injuries to or for the death of persons, including passengers in such amounts as the division may require.

(2) No undertaking filed under this section shall be limited as to the total liability of the indemnitor thereunder, for any series of accidents, and no such undertaking shall be terminated at any time prior to its expiration under the terms thereof, nor canceled for any reason whatever, unless there shall have been filed with the division by the indemnitor a notice thereof at least 30 days prior to the date of such termination or cancellation. Such 30-day notice may be waived if an acceptable replacement undertaking has been filed under this section.

(3) The provisions of this section shall be deemed a part of every such undertaking and no other provision thereof or agreement between the parties thereto shall operate to avoid the same.

(4) The division shall prescribe rules for the administration and enforcement of this section and the administrator may appoint any employe in the division as a representative to affix the administrator's signature, including any facsimile signature adopted by the administrator, to administrative letters, notices and orders to enforce this section. Before any rules adopted under this section take effect, such rules must be approved by the majority of the members of the senate commerce committee and the assembly transportation committee.

History: 1973 c. 200; 1975 c. 243, 421.

The purpose of the insurance requirements of (1) is to protect the safety and welfare of the traveling or shipping public on the highways; hence, coverage for loading and unloading is not within the statutory requirements and—there being no express language as to such coverage in the carrier's policy—was not among the risks accepted by the carrier's insurer. Kroske v. Anaconda American Brass Co. 70 W (2d) 632, 235 NW (2d) 283.

TITLE XXII.

Fraudulent Conveyances and Contracts.

CHAPTER 241

FRAUDULENT CONTRACTS

241.028 Contracts for employment. Any person who shall represent, as an inducement to the sale of any course of study, that he or the school offering such course will, upon the purchaser's completion of such course, place such purchaser in employment unless there is a written contract between such school and an employer whereby the latter is bound to furnish such employment as represented, is guilty of a misdemeanor. Such purchaser shall be entitled, if such representation is made and no such contract exists, to have the purchase price, tuition, fee or other consideration paid for the course refunded and may recover the same in an action of debt.

TITLE XXXII.

Vehicle Code.

CHAPTER 340

GENERAL PROVISIONS

340.01 Words and phrases defined. In chs. 340 to 349, the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(56) "School bus":

(a) Means a motor vehicle which transports:

1. Children to or from a public or private school which fulfills the compulsory school attendance requirements of s. 118.15;

Note: Chapter 429, laws of 1975, provides in section 9 that (56) (a) 1 is repealed and recreated and (56) (a) 1m is created effective July 1, 1977 to read:

"1. Minors to or from a public or private school offering any grades as provided under s. 115.01 (2) or s. 121.51 (3) or minors to or from a vocational technical or adult education school when required under s. 118.15 (1).

1m. Minors to or from any special education program as defined under s. 115.76 (10) operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility or private special education service."

2. School groups engaged in extracurricular activities of such public or private schools to or from points designated by such schools;

3. Children to or from religious instruction on days when school is in session; or

4. Persons having a handicap of a type specified under s. 115.76 (3) (a) to (g) to or from a public or private facility for purposes of participating in a rehabilitation, training, or educational program approved by the department of public instruction, or the department of health and social services, except as provided in par. (b) 4.

Note: Chapter 429, laws of 1975, section 8 provides:

"No person may operate a school bus as provided under section 340.01 (56) (a) 4 of the statutes, after June 30, 1977, unless the person possesses an operator's license as provided under section 343.12 of the statutes."

(b) Does not include:

1. A motor vehicle owned or operated by a parent or guardian transporting only his or her own children, regardless of whether a school has made a contract with or paid compensation to such parent or guardian for such transportation;

2. A motor vehicle having a passenger-carrying capacity of fewer than 10 persons, including the operator, determined by dividing the total seating space measured in inches by 20, used:

a. In reciprocal transportation within par. (a) between parents of school children.

b. In casual occasional transportation of school children; or

3. A motor vehicle operated by a common motor carrier of passengers when used in urban transportation within par. (a) or in extracurricular activities to and from points designated by the appropriate agency in charge of such persons under this subsection, and authorized under ch. 194.

4. A motor vehicle having a passenger-carrying capacity of fewer than 7 persons, including the operator, used to transport handicapped persons to and from rehabilitation and training facilities, determined by dividing the total seating space measured in inches by 20, used to transport persons under par. (a) 4.

CHAPTER 341

REGISTRATION OF VEHICLES

PROVISIONS RELATING TO REGISTRATION FEES

341.26 Special annual registration fees for certain vehicles.

(2) ONE DOLLAR FEE. A registration fee of $1 shall be paid to the division for the annual registration of each of the following vehicles:

(b) Any vehicle loaned to this state or to any county or municipality of this state for the duration of any war emergency and operated exclusively for civilian defense purposes by such state, county or municipality;

(d) A school bus owned, operated or under contract with a private or public school and used exclusively for transportation of students to or from school including extracurricular activities to or from points designated by such school, or a school bus used exclusively to transport persons under s. 340.01 (56) (a) 4;

(da) When engaged in passenger-carrying operations other than as provided in par. (d), such school busses shall register and pay the fees for motor busses provided for in s. 341.25 (2), which said fees may be paid as provided for in ss. 341.30 and 341.31 or the fees provided for automobiles or station wagons as provided in s. 341.25 (1) (a). Fees for part-quarterly registration shall be computed on the basis of one-twelfth of the annual fee multiplied by the number of months of the current quarter which have not fully expired on the date of the application, provided that, where the vehicle was not operated in other than school bus service, an affidavit of nonoperation satisfactory to the division shall be filed with the application;

(e) A motor bus owned and operated by a charitable corporation and used exclusively for the purposes for which incorporated and not used for hire;

(f) A motor vehicle operated exclusively as a Red Cross blood bank vehicle;

(g) A motor vehicle operated exclusively by a nationally chartered war veterans' organization and used only for the purpose of advertising the organization;

(h) A motor vehicle used for the urban mass transportation of passengers as defined in s. 71.18 (2) (a) or operated as auxiliary to or as part of a street railway system.

(i) A motor vehicle owned and operated exclusively by the civil air patrol.

(j) A motor vehicle and semitrailer operated exclusively as a mobile X-ray unit owned and operated by a nonprofit corporation and used exclusively for the purposes for which incorporated and not for hire.

(k) A fire truck owned and operated exclusively by an incorporated volunteer fire department.

(m) A motor vehicle leased or owned and operated by a voluntary, nonprofit, organization and used exclusively for rescue work. In this paragraph, "rescue work" means the rendering of first aid and emergency transportation to persons in need of immediate medical attention.

341.267 Driver education motor vehicles; registration and insurance. (1) An annual fee of $3 shall be paid to the division for the registration of any motor vehicle loaned to a public or nonpublic school having an approved driver education program as certified by the department of public instruction or the board of vocational, technical and adult education. The motor vehicle shall be used for the exclusive purpose of behind-the-wheel instruction and such other operation as is necessary for maintenance and storage.

(2) If a vehicle is replaced, reassignment of the plate to a replacement motor vehicle shall be made by the division on request without payment of an additional fee.

(3) All registrations issued under this section shall expire on June 30 of each year.

(4) The division shall issue plates of a distinctive design to motor vehicles licensed under this section.

(5) No motor vehicle may be used for driver education unless a policy of bodily injury and property damage liability insurance issued by an insurer authorized to transact business in this state, is maintained thereon. The policy shall provide such coverages in at least such amounts as are specified under s. 344.01 (2) (d). However, the division may require additional coverages and amounts as conditions warrant.

(6) No insurance policy issued under sub. (5) may be terminated or canceled prior to its expiration for any reason unless a notice thereof is filed with the division and with the school at least 30 days prior to the date of termination or cancellation.

(7) No registration shall be issued or remain in force for a driver education vehicle unless a certification of insurance in such form as the administrator may require is filed with the division by the insurer certificating that a policy

of insurance, as required by this section, has been issued and is in effect which covers the owner, operator, instructor, school and any passengers in the vehicle.

History: 1973 c. 20?, 1975 c. 235.

CHAPTER 343

OPERATORS' LICENSES

ISSUANCE, EXPIRATION AND RENEWAL OF LICENSES

343.08 Persons not to be licensed. The division shall not issue a license:

(3) To any person under age 18 unless such person has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in vocational, technical and adult education schools approved by the board of vocational, technical and adult education, and in nonpublic and private schools which meet the minimum standards set by the department of public instruction, or has satisfactorily completed a substantially equivalent course in driver training given by a school licensed by the division of motor vehicles under s. 343.61 and has attained the age of 16, except as provided in ss. 343.07 and 343.08. Such substantially equivalent course must be approved by the department of public instruction. The administrator shall prescribe rules for licensing of schools and instructors to qualify under this section. The driver education course shall be made available to every eligible student in the state. No operator's license shall be issued unless a driver's examination has been administered by the division of motor vehicles.

343.07 Instruction permits. (1) ISSUANCE, RESTRICTIONS. Upon application therefor by a person at least 15 years and 6 months of age who, except for his age or lack of training in the operation of a motor vehicle, is qualified to obtain a license, the division may issue an instruction permit. The permit entitles the permittee, to operate a motor vehicle, except a motor-driven cycle, upon the highways, subject to the following restrictions:

(a) If the permittee is at least 16 years of age, he shall not operate a motor vehicle unless he is accompanied by a qualified instructor, or a licensed person with at least 2 years of licensed driving experience, who presently holds a valid license, occupying the seat beside the permittee. No other passengers are allowed in the vehicle except as provided in par. (c).

(b) A permittee under the age of 16 is restricted to operation of a motor vehicle only while accompanied by a qualified instructor, or his parent or guardian who meets the other qualifications of par. (a). Upon reaching the age of 16, the permittee gains the privilege of any other permittee.

(c) If the licensed accompanying operator is a qualified instructor and the vehicle used for instruction by the school is equipped with dual controls, up to 3 other persons may occupy seats in the motor vehicle other than the front seat.

(d) The permittee shall not operate a motor vehicle during the hours of darkness unless accompanied by:

1. A licensed person 25 years of age or more, with at least 2 years' licensed driving experience, occupying the seat beside him; or

2. A qualified instructor.

(e) The permittee may operate a motor vehicle when accompanied by an authorized license examiner for the purpose of examining his ability to operate a motor vehicle.

(2) TRAINING CERTIFICATE REQUIRED. Except for persons who qualify for a license under s. 343.08, the division shall not issue an instruction permit to anyone under 18 years of age, unless it has a certificate from the applicant's qualified instructor to the effect that the applicant is enrolled in an approved driver education and training course for the purpose of the practice driving phase.

(3) DURATION; CANCELLATION. An instruction permit shall be valid for 6 months except that it may be canceled upon receipt of information, by the administrator, of noncompletion or unsatisfactory completion of a driver education and training course by a permittee under the age of 18.

(4) INSTRUCTION PERMITS; MOTOR-DRIVEN CYCLE. (a) Any person who wishes to qualify for the operation of a motor-driven cycle must first hold a valid operator's license by qualifying with an automobile, such license being indorsed as a temporary instruction permit with reference to a motor-driven cycle or a special temporary instruction permit for motor-driven cycle operation may be issued.

(b) Such permit shall be valid for 6 months and entitles the permittee to operate a motor-driven cycle subject to the following restrictions:

1. No passenger shall accompany the permittee except that a person with at least 2 years of licensed driving experience and whose license is indorsed for motor-driven cycle operation may ride as a passenger-instructor.

2. The permittee shall not operate a motor-driven cycle during hours of darkness unless accompanied by a licensed person 25 years of age or more and meeting the requirements of subd. 1.

(5) DEFINITION. In this section, "qualified instructor" means a person employed by a public or private school, holding an operator's license and meeting the teaching certification standards of the department of public instruction or the board of vocational, technical and adult education to teach driver education, or an instructor of a school licensed under s. 343.61, or a teacher or student teacher in a driver education course for teachers conducted by an institution of higher education.

History: 1971 c. 164; 1973 c. 199.

Although the liability of a passenger-teacher for the negligence of his student driver has generally been based on principles of agency, the passenger's liability may also arise from violation of an independent duty to supervise and control the automobile based upon his agreement, as an experienced driver, to instruct and supervise an inexperienced driver, as required by 343.07, for the protection of third persons on the highway. Hoeft v. Friedel, 70 W (2d) 1022, 235 NW (2d) 918.

343.12 School bus operators to obtain special license. (1) No person shall operate a school bus, or a motor bus transporting children or school groups to or from a private school or to or from points designated by such private school, without having first applied for and received a school bus operator's license.

(2) The division shall issue a school bus operator's license to a person only if such person meets all of the following requirements:

(a) Is at least 18 years and not more than 70 years of age.

(c) Holds a valid operator's license issued under this chapter or in the case of residents of the states of Iowa, Illinois, Michigan and Minnesota holds a valid operator's license issued by the state of residence.

(d) Has not been convicted of reckless driving under s. 346.62, operating a motor vehicle while under the influence of an intoxicant or of a controlled substance under s. 346.63 (1) (a), or any of the offenses enumerated under s. 343.31 (1), within the 2-year period immediately preceding the date of application.

(e) Has not been convicted of a felony or offense against public morals within the past 5 years.

(f) Has sufficient use of both hands and the foot normally employed to operate the foot brake and foot accelerator correctly and efficiently. Such use may be substantiated by competent medical proof submitted by the applicant.

(g) Has passed the physical examination required. Physical standards to be met may be established by the department of public instruction.

(h) Takes and passes once each year a special examination prescribed and administered by the division to determine his ability to safely operate a school bus.

(3) Any person violating sub. (1) may be required to forfeit not more than $100.

History: 1971 c. 213 s. 5; 1973 c. 174, 218; 1975 c. 19, 199.

CHAPTER 346

RULES OF THE ROAD

REQUIRED STOPS

346.48 Vehicles to stop for school busses loading or unloading children. (1) The operator of a vehicle which approaches from the front or rear any school bus which has stopped on a street or highway when the bus is equipped according to s. 347.25 (2) and when it is displaying flashing red warning lights, shall stop the vehicle not less than 20 feet from the bus and shall remain stopped until the bus resumes motion or the operator extinguishes the flashing red warning lights. The operator of any school bus which approaches from the front or rear any school bus which has stopped and is displaying flashing red warning lights shall display its flashing red lights while stopped. This subsection does not apply to operators of vehicles proceeding in the opposite direction on a divided highway.

(2) (a) Except as provided in par. (b) the operator of a school bus equipped with flashing red warning lights as specified in s. 347.25 (2) shall actuate such lights at least 100 feet before stopping to load or unload pupils or other authorized passengers, and shall not extinguish such lights until loading or unloading is completed and persons who must cross the highway are safely across. Where the curb and sidewalk are laid on one side of the road only, the operator shall use the flashing red warning lights when loading or unloading passengers from either side.

(b) School bus operators shall not use the flashing red warning lights in:

1. Special school bus loading areas where the bus is entirely off the traveled portion of the highway;

2. Residence or business districts when pupils or other authorized passengers are to be loaded or unloaded where a sidewalk and curb are laid on both sides of the road, unless required otherwise by municipal ordinance enacted under s. 349.21.

(c) When a school bus is being used on a highway for purposes other than those specified in s. 340.01 (56) (a), the flashing red warning lights shall not be used, and all markings on the front and rear of the bus indicating it is a school bus shall be removed or completely concealed; except that any time a motor vehicle is equipped as provided under ss. 347.25 (2) and 347.44 and is transporting children for any purpose, the school bus markings may remain unconcealed and the flashing red signals may be used as provided in this section and when so used, sub. (1) applies to operators of other motor vehicles.

History: 1973 c. 93; 1975 c. 18, 120, 429.

Cross Reference: See 349.21 which authorizes towns, cities, villages and counties to provide for the use of flashing red lights by school busses in certain residence or business districts.

RESTRICTIONS ON STOPPING AND PARKING

346.52 Stopping prohibited in certain specified places.

(2) During the hours of 7:30 a.m. to 4:30 p.m. during school days, no person shall stop or leave any vehicle standing, whether temporarily or otherwise, upon the near side of a through highway adjacent to a schoolhouse used for any children below the 9th grade. If the highway adjacent to such schoolhouse is not a through highway, the operator of a vehicle may stop upon the near side thereof during such hours, provided such stopping is temporary and only for the purpose of receiving or discharging passengers. This subsection shall not apply to villages or cities when the village board or common council thereof by ordinance permits parking on the near side of specified highways or streets adjacent to schoolhouses during specified hours.

SPEED RESTRICTIONS

346.57 Speed restrictions.

(3) CONDITIONS REQUIRING REDUCED SPEED. The operator of every vehicle shall, consistent with the requirements of sub. (2), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, when passing school children, highway construction or maintenance workers or other pedestrians, and when special hazard exists with regard to other traffic or by reason of weather or highway conditions.

(4) FIXED LIMITS. In addition to complying with the speed restrictions imposed by subs. (2) and (3), no person shall drive a vehicle at a speed in excess of the following limits unless different limits are indicated by official traffic signs:

(a) 15 miles per hour when passing a schoolhouse at those times when children are going to or from school or are playing within the sidewalk area at or about the school.

(b) 15 miles per hour when passing an intersection properly marked with a "school crossing" sign of a type approved by the state highway commission when children are present.

(c) 15 miles per hour when passing a safety zone occupied by pedestrians and at which a public passenger vehicle has stopped for the purpose of receiving or discharging passengers.

(d) 15 miles per hour in any alley.

(e) 25 miles per hour on any highway within the corporate limits of a city or village, other than on highways in outlying districts in such city or village.

(em) 25 miles per hour on any service road within the corporate limits of a city or village unless modified by the authority in charge of the highway.

(f) 35 miles per hour in any outlying district within the corporate limits of a city or village.

(g) 35 miles per hour on any highway in a semiurban district outside the corporate limits of a city or village.

(h) In the absence of any other fixed limits or the posting of limits as required or authorized by law, 55 miles per hour during hours of darkness and 65 miles per hour at other times.

(hm) Notwithstanding par. (h), during an energy emergency, in the absence of any other fixed limits or the posting of limits as required or authorized by law, 55 miles per hour.

(i) 15 miles per hour on any city or village street, except a state trunk highway or connecting street, within, contiguous to or adjacent to a public park or recreation area when children are going to or from or are playing within such area, when the local authority has enacted an ordinance regulating such traffic and has properly marked such area with movable traffic signals which conform to rules of the highway commission erected at such points as said authority deems necessary and at those points on the streets concerned where persons traversing the same would enter such area from an area where a different speed limit is in effect.

(j) 35 miles per hour on any town road where on either side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average less than 150 feet apart, provided the town board has adopted an ordinance determining such speed limit and has posted signs at such points as the town board deems necessary to give adequate warning to users of the town road.

CHAPTER 347

EQUIPMENT OF VEHICLES

LIGHTING EQUIPMENT.

347.25 Special warning lamps on emergency vehicles, school busses and funeral vehicles.

(2) No person shall operate a school bus which is painted as provided in s. 347.44 unless it is equipped with flashing red signals of a type and actuated in a manner approved by the administrator. No vehicle shall be equipped with such flashing signals unless it also is painted as provided in s. 347.44.

OTHER EQUIPMENT

347.44 Painting requirements for school busses; restrictions as to painting of other vehicles. (1) All school busses as defined in s. 340.01 (56) (a) 1 to 3 shall be painted as follows:

(a) With the exception of trim, the body, including hood, fenders, cowl and roof shall be painted a uniform color, national school bus glossy yellow, according to national bureau of standards specifications;

(b) The body trim, if used, shall be black; and

(c) The words, "SCHOOL BUS", in black letters at least 8 inches high shall appear on both the front and rear of the body or on a sign attached thereto.

(2) (a) School busses having a passenger carrying capacity of 7 or more but fewer than 10 persons, including the operator, as determined by dividing the total seating space measured in inches by 20, in use prior to January 1, 1976, may, but need not, comply with sub. (1).

(b) School busses having a passenger carrying capacity of fewer than 7 persons, including the operator, as determined by dividing the total seating space measured in inches by 20, may, but need not, comply with sub. (1).

(c) School busses under par. (b) shall at no time transport more passengers, including the operator, than the passenger carrying capacity of such vehicle.

(3) Motor busses which are used jointly as school busses and in regular urban service, and school busses as defined in s. 340.01 (56) (a) 4 may, but need not comply with sub. (1).

(4) If a vehicle mentioned in sub. (2) or (3) is painted as provided in sub. (1), it must also be equipped with flashing red signals of the type specified in s. 347.25 (2).

(5) The administrator may by rule specify the size of lettering for those vehicles whose width limitations would make it difficult to comply with sub. (1) (c).

(6) No owner of any vehicle using the highways shall paint or in any way designate a vehicle in the manner described in this section, except as expressly authorized by this section.

History: 1975 c. 121, 199, 224, 429.

TITLE XLIII.

Provisions Common to Actions and Proceedings in All Courts.

CHAPTER 885

WITNESSES AND ORAL TESTIMONY

GENERAL PROVISIONS

885.205 Privileged communications. No dean of men, dean of women or dean of students at any institution of higher education in this state, or any school psychologist at any school in this state, shall be allowed to disclose communications made to such dean or psychologist or advice given by such dean or psychologist in the course of counseling a student, or in the course of investigating the conduct of a student enrolled at such university or school, except:

(1) This prohibition may be waived by the student.

(2) This prohibition does not include communications which such dean needs to divulge for his own protection, or the protection of those with whom he deals, or which were made to him for the express purpose of being communicated to another, or of being made public.

(3) This prohibition does not extend to a criminal case when such dean has been regularly subpoenaed to testify.

TITLE XLV.

Criminal Code.

CHAPTER 941

CRIMES AGAINST PUBLIC HEALTH AND SAFETY

OTHER DANGEROUS INSTRUMENTALITIES AND PRACTICES.

941.33 Hazing. Whoever engages in or incites hazing which results in or is likely to result in bodily harm to another in any school may be fined not more than $200 or imprisoned not more than 60 days or both.

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